1–27–97
Vol. 62 No. 17
Pages 3771–3978

Monday
January 27, 1997

Federal Register

FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Administration, Washington, DC 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

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Rules and Regulations

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FEDERAL DEPOSIT INSURANCE CORPORATION

5 CFR Part 3201

RIN 3064–AA08, 3209–AA15

Supplemental Standards of Ethical Conduct For Employees of the Federal Deposit Insurance Corporation

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Final rule; amendment.

SUMMARY: The FDIC, with the concurrence of the Office of Government Ethics (OGE), is amending the Supplemental Standards of Ethical Conduct for Employees of the Federal Deposit Insurance Corporation to allow certain employees in the FDIC's Division of Supervision (DOS) and Division of Compliance and Consumer Affairs (DCA) to obtain credit cards from State chartered nonmember banks that are headquartered outside the geographical jurisdiction of the field office to which the employee is assigned. The FDIC is also making minor changes in its Supplemental Standards to conform them to previous organizational changes.

EFFECTIVE DATE: January 27, 1997.

FOR FURTHER INFORMATION CONTACT: Richard M. Handy, Assistant Executive Secretary (Ethics), Office of the Executive Secretary of the Federal Deposit Insurance Corporation, 550 17th Street, N.W., Washington, D.C. 20429; telephone (202) 898–7271.

SUPPLEMENTARY INFORMATION:

I. Background

The FDIC is the primary regulator for State chartered banks that are not members of the Federal Reserve System. FDIC bank examinations are generally conducted by examiners assigned to the FDIC's DOS or DCA. Both divisions maintain numerous field offices that report to one of eight regional offices. The responsibility for examining any particular State nonmember bank belongs to the field office whose geographical jurisdiction includes that bank's headquarters. Bank examination reports and recommendations are sent from the field office to its regional office for approval.

In order to minimize potential conflicts of interest between examiners and the banks they examine, the FDIC's ethics regulations have traditionally prohibited examiners from obtaining credit from State nonmember banks. Since 1988, the FDIC's employee ethics regulation has made an exception to the general prohibition to allow examiners in the field offices and regional offices to accept credit in the form of credit cards from State nonmember banks headquartered outside the FDIC region to which they are assigned, subject to certain conditions. Also since 1988, an exception for headquarters employees subject to the general credit restriction has allowed them to obtain credit cards from any State nonmember bank. Any employee who avails him or herself of the credit card exception was required to disqualify him or herself from taking any official action affecting the State nonmember bank that issued the credit card. The disqualification requirement prevents employees from taking actions that would constitute a conflict of interest for the employee, thus avoiding violations of the Federal conflict of interest statute (18 U.S.C. 208) or subpart D of the Office of Government Ethics' Standards of Ethical Conduct for Executive Branch Employees that apply to FDIC employees, 5 CFR part 2635. See also OGE's recent final 18 U.S.C. 208 regulation, 61 FR 6830–66851 (part III) (December 18, 1996). The general State nonmember bank credit prohibition and its exception are consistent with, but not the same as, 18 U.S.C. 213 which prohibits examiners from accepting credit from any institution that they have previously examined.

The FDIC's employee ethics regulation (5 CFR part 3201) was comprehensively revised in 1995 to supplement OGE's executive branch-wide employee ethics regulation. See 60 FR 20171–20178 (April 25, 1995), as amended at 61 FR 35915–35916 (July 9, 1996). The FDIC's present general credit restriction applies to designated DOS and DCA employees, most but not all of whom are bank examiners. See § 3201.102(c)(1). The credit card exception for headquarters employees which allows them to acquire credit cards from any State nonmember bank, subject to the disqualification requirement, is at § 3201.102(c)(1)(i). The credit card exception for employees assigned to DOS and DCA regional and field offices that allows them to acquire credit cards from State nonmember banks headquartered outside their region of assignment, subject to the disqualification requirement, is at § 3201.102(c)(1)(ii).

Thus, at present, employees of all field offices within a region are prohibited from getting any credit, including a credit card, from any State nonmember bank headquartered in their region, even from banks that are examined by a different field office than the one to which they are assigned. The narrowness of the credit card exception has allowed management the maximum flexibility to assign employees within their region as staffing needs require. This is because, in most cases, the combination of the broad credit restriction and the narrow exception to it has meant that most examiners assigned to a region have no credit from any State nonmember bank located within that region. Absent disqualifications that result from an extension of credit, the employees can be assigned to work on any bank within the region as well as their field office as the need arises.

However, the current § 3201.102(c)(1)(ii) prohibition and narrow exception has kept DOS and DCA employees from obtaining credit that many citizens consider important in conducting their personal business. For example, in certain cases, department stores have transferred their customer credit accounts to State nonmember banks from which examiners in the region of the bank's headquarters are prohibited from accepting credit cards. In other cases, nationally chartered banks from whom DOS and DCA employees can generally obtain credit issue their credit cards through State chartered nonmember banks. In such cases, DOS and DCA employees covered by § 3201.102(c)(1)(ii) are prohibited from accepting credit available to others.

In order to alleviate somewhat the difficulty in obtaining credit card credit by employees covered by § 3201.102(c)(1)(ii), the FDIC has determined to modify the exception to the prohibition in a way that still maintains protection against potential conflicts of interest. Specifically, the FDIC has determined to expand the § 3201.102(c)(1)(ii) exception to allow employees assigned to a field office to obtain credit cards from State nonmember banks that are headquartered outside their field office's geographical examination responsibility. Thus, for example, an employee assigned to one of the 17 field offices within the Atlanta Regional Office will be able to obtain credit card credit from State nonmember banks headquartered in the other 16 field offices within the region that were previously not allowed. Potential conflicts of interest will still be avoided by continuing the requirement that any employee who obtains credit card credit pursuant to the newly expanded exception shall disqualify him or herself from taking any official action regarding the issuer of that credit.

The broadened exception to the § 3201.102(c)(1) prohibition may reduce FDIC management's flexibility, in certain cases, to reassign employees to different offices. However, management has determined that the increased availability of credit to its employees is worth the increased effort required. Similarly, employees who obtain previously prohibited credit as a result of this change must recognize that their ability to accept assignments will be narrowed to the extent that they use this expanded exception to the rule.

The change in the exception would not affect DOS or DCA employees assigned to the Washington office who would continue to be allowed by § 3201.102(c)(1)(i) to obtain credit through the use of a credit card from any State nonmember bank. Nor will the change affect DOS or DCA employees whose official assignment is to a regional office. Since those employees can take action affecting any State nonmember bank within their region, they will still be permitted to obtain credit cards only from State nonmember banks headquartered outside their region of assignment.

The FDIC is also making a couple of other minor changes in § 3201.102 to reflect organizational changes that have occurred since the regulation was finalized. First, § 3201.102(c)(2), which identifies the employees to whom the credit restriction of § 102(c)(1) applies, is amended to delete two references to the positions of Executive Director for Supervision, Resolutions, and Compliance and Regional Manager which no longer exist. Second, the FDIC is amending § 3201.102(d) which prohibits employees of certain FDIC divisions who have certain listed official duties from accepting credit from an FDIC-insured depository institution for two years after their last participation in an official matter affecting that institution. The amendment adds to the list of divisions covered by § 3201.102(d) the Division of Insurance which was created after the FDIC's supplemental employee ethics regulation was made final and substitutes the new Division of Resolutions and Receiverships for the former Division of Depositor and Asset Services and the Division of Resolutions.

II. Matters of Regulatory Procedure

Administrative Procedure Act

Pursuant to 5 U.S.C. 553(a)(2), (b) and (d), the Board of Directors has found that good cause exists for waiving the regular notice of proposed rulemaking and 30-day delayed effective date as to this final rule amendment. This action is being taken because it is in the public interest that this rule, which concerns matters of agency organization, practice and procedure and which relieves certain restrictions placed on FDIC employees, become effective on the date of publication.

Regulatory Flexibility Act

The Board of Directors has concluded that the amendment to the rule will not impose a significant economic hardship on small institutions. Therefore, the Board of Directors hereby certifies pursuant to § 605 of the Regulatory Flexibility Act (5 U.S.C. 605) that the amended regulation will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

Paperwork Reduction Act

The Board of Directors has determined that the amended regulation does not contain any information collection requirements that require the approval of the Office of Management and Budget pursuant to the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

List of Subjects in 5 CFR Part 3201

Administrative practice and procedure, Conflict of interests, Government employees, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, the Federal Deposit Insurance Corporation, with the concurrence of the Office of Government Ethics, is amending 5 CFR part 3201 as follows:

PART 3201—SUPPLEMENTAL STANDARDS OF ETHICAL CONDUCT FOR EMPLOYEES OF THE FEDERAL DEPOSIT INSURANCE CORPORATION

1. The authority citation for part 3201 continues to read as follows:

Authority: 5 U.S.C. 7301; 5 U.S.C. App. (Ethics in Government Act of 1978); 12 U.S.C. 1819(a), 1822; 26 U.S.C. 1043; E.O. 12674, 54 FR 15159, 3 CFR, 1989 Comp., p. 215, as modified by E.O. 12731, 55 FR 42547, 3 CFR, 1990 Comp., p. 306; 5 CFR 2635.105, 2635.403, 2635.502, and 2635.803.

2. Section 3201.102 is amended as set forth below:

A. Removing the word ''and'' at the end of paragraph (c)(1)(i);

B. Revising paragraph (c)(1)(ii);

C. Adding a new paragraph (c)(1)(iii);

D. Removing the words ''the Executive Director for Supervision, Resolutions, and Compliance,'' in both places in which they appear and the words ''Regional Manager,'' where it appears in paragraph (c)(2); and

E. Amending paragraph (c)(3) by removing the phrase ''(c)(1)(i) or (c)(1)(ii)'' and adding in its place the phrase ''(c)(1)(i), (c)(1)(ii), or (c)(1)(iii);'' and

F. Amending paragraph (d)(2) by removing the words ''Division of Depositor and Asset Services, Division of Resolutions'' and adding in their place ''Division of Resolutions and Receiverships,'' and adding ''Division of Insurance,'' before the words ''Legal Division.'' The revised paragraph (c)(1)(ii) and the added paragraph (c)(1)(iii) read as follows:

§ 3201.102 Extensions of credit from FDIC-insured depository institutions.

* * * * *

(c) * * *

(1) * * *

(ii) For an employee assigned to a regional office, credit extended by an FDIC-insured State nonmember bank headquartered outside the employee's region of official assignment through the use of a credit card on the same terms and conditions as are offered to the general public; and

(iii) For an employee assigned to a field office, credit extended by an FDIC-insured State nonmember bank headquartered outside the employee's field office of official assignment through the use of a credit card on the same terms and conditions as are offered to the general public.

* * * * *

Dated at Washington, D.C. this 11th day of December 1996.

By Order of the Board of Directors.
Federal Deposit Insurance Corporation.
Jerry L. Langley,
Executive Secretary.

Concurred in this 17th day of January 1997.
Stephen D. Potts,
Director, Office of Government Ethics.
[FR Doc. 97–1867 Filed 1–24–97; 8:45 am]
BILLING CODE 6714–01–P

FEDERAL RESERVE SYSTEM

12 CFR Parts 207, 220, 221, and 224

[Regulations G, T, U and X]

Securities Credit Transactions; List of Marginable OTC Stocks; List of Foreign Margin Stocks

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule; determination of applicability of regulations.

SUMMARY: The List of Marginable OTC Stocks (OTC List) is composed of stocks traded over-the-counter (OTC) in the United States that have been determined by the Board of Governors of the Federal Reserve System to be subject to the margin requirements under certain Federal Reserve regulations. The List of Foreign Margin Stocks (Foreign List) is composed of foreign equity securities that have met the Board's eligibility criteria under Regulation T. The OTC List and the Foreign List are published four times a year by the Board. This document sets forth additions to and deletions from the previous OTC List and the previous Foreign List.

EFFECTIVE DATE: February 10, 1997.

FOR FURTHER INFORMATION CONTACT: Peggy Wolffrum, Securities Regulation Analyst, Division of Banking Supervision and Regulation, (202) 452–2781, Board of Governors of the Federal Reserve System, Washington, D.C. 20551. For the hearing impaired only, contact Dorothea Thompson, Telecommunications Device for the Deaf (TDD) at (202) 452–3544.

SUPPLEMENTARY INFORMATION: Listed below are the deletions from and additions to the Board's OTC List, which was last published on October 28, 1996 (61 FR 55555), and became effective November 12, 1996. A copy of the complete OTC List is available from the Federal Reserve Banks.

The OTC List includes those stocks traded over-the-counter in the United States that meet the criteria in Regulations G, T and U (12 CFR Parts 207, 220 and 221, respectively). This determination also affects the applicability of Regulation X (12 CFR Part 224). These stocks have the degree of national investor interest, the depth and breadth of market, and the availability of information respecting the stock and its issuer to warrant regulation in the same fashion as exchange-traded securities. The OTC List also includes any OTC stock designated for trading in the national market system (NMS security) under rules approved by the Securities and Exchange Commission (SEC). Additional OTC stocks may be designated as NMS securities in the interim between the Board's quarterly publications. They will become automatically marginable upon the effective date of their NMS designation. The names of these stocks are available at the SEC and at the National Association of Securities Dealers, Inc. and will be incorporated into the Board's next quarterly publication of the OTC List.

Also listed below are the deletions from and additions to the Foreign List which was last published on October 28, 1996 (61 FR 55555) and became effective November 12, 1996. A copy of the complete Foreign List is available from the Federal Reserve banks.

Public Comment and Deferred Effective Date

The requirements of 5 U.S.C. 553 with respect to notice and public participation were not followed in connection with the issuance of this amendment due to the objective character of the criteria for inclusion and continued inclusion on the Lists specified in 12 CFR 207.6(a) and (b), 220.17(a), (b), (c) and (d), and 221.7(a) and (b). No additional useful information would be gained by public participation. The full requirements of 5 U.S.C. 553 with respect to deferred effective date have not been followed in connection with the issuance of this amendment because the Board finds that it is in the public interest to facilitate investment and credit decisions based in whole or in part upon the composition of these Lists as soon as possible. The Board has responded to a request by the public and allowed approximately a two-week delay before the Lists are effective.

List of Subjects

12 CFR Part 207

Banks, Banking, Credit, Margin, Margin requirements, National Market System (NMS Security), Reporting and recordkeeping requirements, Securities.

12 CFR Part 220

Banks, Banking, Brokers, Credit, Margin, Margin requirements, Investments, National Market System (NMS Security), Reporting and recordkeeping requirements, Securities.

12 CFR Part 221

Banks, Banking, Credit, Margin, Margin requirements, National Market System (NMS Security), Reporting and recordkeeping requirements, Securities.

12 CFR Part 224

Banks, Banking, Borrowers, Credit, Margin, Margin requirements, Reporting and recordkeeping requirements, Securities.

Accordingly, pursuant to the authority of sections 7 and 23 of the Securities Exchange Act of 1934, as amended (15 U.S.C. 78g and 78w), and in accordance with 12 CFR 207.2(k) and 207.6 (Regulation G), 12 CFR 220.2 and 220.17 (Regulation T), and 12 CFR 221.2(j) and 221.7 (Regulation U), there is set forth below a listing of deletions from and additions to the OTC List and the Foreign List.

Deletions From the List Of Marginable OTC Stocks

Stocks Removed for Failing Continued Listing Requirements

50–OFF STORES, INC.
$.01 par common
ASTROSYSTEMS, INC.
$.10 par common
BRADLEY PHARMACEUTICALS, INC.
Class A, warrants (expire 11–12–96)
Class B, warrants (expire 11–12–96)
Class D, warrants (expire 12–09–96)
CAM-NET COMMUNICATIONS NETWORK, INC.
No par common
CREATIVE TECHNOLOGIES CORP.
$.03 par common
CRYOMEDICAL SCIENCES, INC.
$.001 par common
D & N FINANCIAL CORPORATION
Warrants (expire 12–31–96)
EDMARK CORPORATION
No par common
EMBREX, INC.
Warrants (expire 11–07–96)
ENCON SYSTEMS, INC.
$.01 par common
EUROMED, INC.
$.01 par common
EVERGREEN MEDIA CORPORATION
6% convertible exchangeable preferred
FIRST COMMERCE CORPORATION
$25.00 par cumulative preferred
GENSIA, INC.
Warrants (expire 12–31–96)
Rights (expire 12–31–96)
GENZYME CORPORATION

Series N, warrants (expire 12–31–96)
GRANT GEOPHYSICAL INC.
$.002 par common
$.01 par convertible exchangeable preferred
HEALTHCARE IMAGING SERVICES, INC.
Class B, redeemable warrants (expire 11–12–96)
HYCOR BIOMEDICAL, INC.
Warrants (expire 08–07–98)
ITALIAN OVEN, INC., THE
$.01 par common
JG INDUSTRIES, INC.
No par common
KRUG INTERNATIONAL CORP.
Warrants (expire 01–27–98)
L. L. KNICKERBOCKER COMPANY
Warrants (expire 01–24–97)
LAM RESEARCH CORPORATION
6% convertible subordinated debentures due 2003
MEMOREX TELEX N.V.
American Depositary Receipts
MULTI-MARKET RADIO, INC.
Class A, warrants (expire 03–23–99)
NASTECH PHARMACEUTICAL COMPANY INC.
Warrants (expire 12–07–96)
NATIONAL CAPITAL MANAGEMENT CORPORATION
$.01 par common
NEOPROBE CORPORATION
Class E, warrants (expire 11–12–96)
NEOSTAR RETAIL GROUP, INC.
$.01 par common
NEOZYME II CORPORATION
Units (expire 12–31–96)
NOVATEK INTERNATIONAL, INC.
No par common
OLYMPIC FINANCIAL LTD. (MN)
8% cumulative convertible exchangeable preferred
ONBANCORP, INC. (NY)
6.75% Series B, cumulative preferred
PDK LABS, INC.
Class C, warrants (expire 04–14–97)
PROSPECT GROUP, INC., THE
$.50 par common
SANCHEZ COMPUTER ASSOCIATES, INC.
Rights (expire 12–18–96)
SMITH TECHNOLOGY CORPORATION
$.01 par common
SPRECKELS INDUSTRIES, INC.
Class A, $.01 par common
STAT HEALTHCARE, INC.
Warrants (expire 04–21–98)
TEE-COMM ELECTRONICS, INC.
Purchase warrants (expire 11–22–96)
TRANS WORLD GAMING CORPORATION
$.001 par common Warrants (expire 12–15–99)
WASHINGTON MUTUAL INC.
Series D, $1.00 par convertible perpetual preferred
WHARF RESOURCES, LTD.
No par common

Stocks Removed for Listing on a National Securities Exchange or Being Involved in an Acquisition

A+ NETWORK, INC.
$.01 par common
ACCUSTAFF INCORPORATED
$.01 par common
ADDINGTON RESOURCES, INC.
No par common
AEQUITRON MEDICAL, INC.
$.01 par common
AG SERVICES OF AMERICA, INC.
No par common
AMERICAN TRAVELLERS CORPORATION
$.01 par common
AMTROL INC.
$.01 par common
ARMOR ALL PRODUCTS CORPORATION
$.01 par common
BETTIS CORPORATION
$.01 par common
BIG B, INC.
$.01 par common
BIO-DENTAL TECHNOLOGIES CORPORATION
$.01 par common
BOATMEN'S BANCSHARES, INC. (Missouri)
$1.00 par common
Depositary Shares
BOSTON TECHNOLOGY, INC.
$.001 par common
BUTLER MANUFACTURING COMPANY
No par common
BWAY CORPORATION
$.01 par common
CAREMATRIX CORPORATION
$.01 par common
CASCADE CORPORATION
$.50 par common
CENTER FINANCIAL CORPORATION
$1.00 par common
CENTRAL JERSEY FINANCIAL CORPORATION
$1.00 par common
CHARTER POWER SYSTEMS, INCORPORATED
$.01 par common
CITIZENS BANCORP (Maryland)
$2.50 par common
COLONIAL DATA TECHNOLOGIES CORPORATION
$.01 par common
COMSTOCK RESOURCES, INC.
$.50 par common
CONSOLIDATED PRODUCTS, INC.
No par common
CONTINENTAL WASTE INDUSTRIES, INC.
$.001 par common
CULP, INC.
$.05 par common
CUPERTINO NATIONAL BANCORP (California)
No par common
DATALOGIX INTERNATIONAL, INC.
$.01 par common
DAVCO RESTAURANTS, INC.
$.001 par common
DELPHI FINANCIAL GROUP, INC.
Class A, $.01 par common
DEPOSIT GUARANTY CORP.
No par common
ELECTROSTAR, INC.
$.01 par common
FALCON DRILLING COMPANY, INC.
$.01 par common
FAMILY BANCORP (Massachusetts)
$.10 par common
FARMERS & MECHANICS BANK (Connecticut)
$.01 par common
GENETICS INSTITUTE, INC.
Depositary Shares
GMIS INC.
$.01 par common
GREENSTONE INDUSTRIES, INC.
$.001 par common
Warrants (expire 07–20–99)
HOME FEDERAL CORPORATION (Maryland)
$1.00 par common
HOME FINANCIAL CORPORATION
$.10 par common
IMPERIAL BANCORP (California)
No par common
IOMEGA CORPORATION
$.0333 par common
IPSCO INC.
No par common
JEFFERSON BANCORP, INC. (Florida)
$1.00 par common
JP FOODSERVICE, INC.
$.01 par common
KASH N KARRY FOOD STORES, INC.
$.01 par common
KRUG INTERNATIONAL CORP.
No par common
LEARNING COMPANY, INC., THE
$.01 par common
LXE, INC.
$.01 par common
MAGNA GROUP, INC.
$2.00 par common
MAIL-WELL, INC.
$.01 par common
META-SOFTWARE, INC.
No par common
METROPOLITAN BANCORP (Washington)
$1.00 par common
MFS COMMUNICATIONS COMPANY, INC.
$.01 par common
Depositary Shares
MOUNTAIN PARKS FINANCIAL CORPORATION
$.001 par common
MULTI-MARKET RADIO, INC.
Class A, $.01 par common
NEOPHARM, INC.
$.000429 par common
NORTH SIDE SAVINGS BANK (New York)

$1.00 par common
OM GROUP INC.
$.01 par common
OPAL, INC.
$.01 par common
OPEN ENVIRONMENT CORPORATION
$.01 par common
PACIFIC REHABILITATION & SPORTS MEDICINE INC.
$.01 par common
PARTNERRE LTD.
$1.00 par common
PAYCO AMERICAN CORPORATION
$.10 par common
PENRIL DATACOMM NETWORKS, INC.
$.01 par common
PEOPLES TELEPHONE COMPANY, INC.
$.01 par common
PET FOOD WAREHOUSE, INC.
$.01 par common
PHYSICIANS INSURANCE COMPANY OF OHIO
Class A, $1.00 par common
PXRE CORPORATION
$.01 par common
READICARE, INC.
$.01 par common
REDMAN INDUSTRIES INC.
$.01 par common
RICHFOOD HOLDINGS, INC.
No par common
ROCK-TENN COMPANY
Class A, $.01 par common
ROPER INDUSTRIES, INC.
$.01 par common
SAVOY PICTURES ENTERTAINMENT, INC.
$.01 par common
SEACOR HOLDINGS, INC.
$.01 par common
SITEL CORPORATION
$.001 par common
SKYLINE CHILI, INC.
No par common
SOFTWARE PUBLISHING CORPORATION
No par common
ST. JUDE MEDICAL, INC.
$.10 par common
STAT HEALTHCARE, INC.
$.01 par common
STERLING HEALTHCARE GROUP, INC.
$.0001 par common
SUDBURY, INC.
$.01 par common
SUNCOAST SAVINGS & LOAN ASSOCIATION (Florida)
$1.10 par common
Series A, $5.00 par non-cumulative convertible preferred
SUNRISE BANCORP (California)
No par common
SUPERCUTS, INC.
$.01 par common
TELEBIT CORPORATION
No par common
TODAY'S BANCORP, INC.
$5.00 par common
TRANSNATIONAL RE CORPORATION
Class A, $.01 par common
TRANSPORT HOLDINGS, INC.
Class A, $.01 par common
UNION SWITCH & SIGNAL INC.
$.01 par common
US FACILITIES CORPORATION
$.01 par common
US ORDER, INC.
$.001 par common
UTAH MEDICAL PRODUCTS, INC.
$.01 par common
WALDEN BANCORP, INC.
$1.00 par common
WESTPORT BANCORP, INC. (Connecticut)
$.01 par common
WILLAMETTE INDUSTRIES, INC.
$.50 par common
WORKINGMENS CAPITAL HOLDINGS, INC.
No par common
ZYCON CORPORATION
$.001 par common

Additions to the List of Marginable OTC Stocks

3D LABS INC. LIMITED
$.01 par common
3DX TECHNOLOGIES, INC.
$.01 par common
ACCELR8 TECHNOLOGY CORPORATION
No par common
ACCENT COLOR SCIENCES, INC.
No par common
ACCESS BEYOND, INC.
$.01 par common
ACTRADE INTERNATIONAL, LTD.
$.001 par common
ADVANCED AERODYNAMICS & STRUCTURES, INC.
$.0001 par common
Class A, warrants (expire 12–03–2001)
Class B, warrants (expire 12–03–2001)
ADVANCED RADIO TELECOM CORPORATION
$.001 par common
AFTERMARKET TECHNOLOGY CORPORATION
$.01 par common
ALL-COMM MEDIA CORPORATION
$.01 par common
ALLEGRO NEW MEDIA, INC.
$.001 par common
ALLIN COMMUNICATIONS CORPORATION
$.01 par common
ALYN CORPORATION
$.001 par common
AMERICAN MATERIALS & TECHNOLOGIES CORPORATION
$.01 par common
AMERICAN MEDSERVE CORPORATION
$.01 par common
AMSCAN HOLDINGS, INC.
$.10 par common
ANDEAN DEVELOPMENT CORPORATION
Warrants (expire 11–12–2001)
ANSALDO SIGNAL, NV
Common shares (par NLS .01)
APPLIED CELLULAR TECHNOLOGY, INC.
$.001 par common
APPLIED IMAGING CORPORATION
$.001 par common
AQUILA BIOPHARMACEUTICALS, INC.
$.05 par common
ARAMEX INTERNATIONAL LIMITED
$.01 par common
ARNOLD PALMER GOLF COMPANY
$.50 par common
ASHTON TECHNOLOGY GROUP, INC.
$.01 par common
AURUM SOFTWARE, INC.
$.001 par common
AUTOBAOND ACCEPTANCE CORPORATION
No par common
AVIRON
$.001 par common
AWARD SOFTWARE INTERNATIONAL, INC.
No par common
AXSYS TECHNOLOGIES, INC.
$.01 par common
B.O.S. BETTER ONLINE SOLUTIONS LTD.
Common stock (NIS 1.00)
BANKUNITED FINANCIAL CORPORATION (Florida)
Series 1996, 8% par noncumulative convertible preferred
BARRINGER TECHNOLOGIES, INC.
$.01 par common
Warrants (expire 11–12–99)
BIACORE INTERNATIONAL AB
American Depositary Receipts
BIG FOOT FINANCIAL CORPORATION
$.01 par common
BITSTREAM, INC.
$.01 par common
BONE CARE INTERNATIONAL, INC.
No par common
BOSTON BIOMEDICA, INC.
$.01 par common
BOWLIN OUTDOOR ADVERTISING & TRAVEL CENTER, INC.
$.001 par common
BRAKE HEADQUARTERS U.S.A.
$.001 par common
CAL-MAINE FOODS, INC.
$.01 par common
CALIFORNIA FEDERAL BANK, FSB
Secondary Contingent Litigation Recovery Participation Interests
CALYPTE BIOMEDICAL CORPORATION
$.001 par common
CANDLEWOOD HOTEL COMPANY, INC.
$.01 par common
CAROLINA FINCORP, INC.
No par common

CB COMMERCIAL REAL ESTATE SERVICES GROUP, INC.
$.01 par common
CD RADIO, INC.
$.001 par common
CNS BANCORP, INC. (Missouri)
$10.00 par common
COLT TELECOM GROUP PLC
American Depositary Receipts
COMPOSITECH LTD.
$.01 par common
COMPSCRIPT, INC.
$.0008 par common
CONSOLIDATED FREIGHTWAYS CORPORATION
$.01 par common
CREDIT MANAGMENT SOLUTIONS, INC.
$.01 par common
CUBIST PHARMACEUTICALS, INC.
$.001 par common
CV THERAPEUTICS, INC.
$.001 par common
CYBERMEDIA, INC.
$.01 par common
DANNINGR MEDICAL TECHNOLOGY, INC.
$.01 par common
DATA TRANSLATION, INC.
$.01 par common
DELGRATIA MINING CORPORATION
No par common
DELIA*S INC.
$.01 par common
DELPHOS CITIZENS BANCORP, INC.
$.01 par common
DONNELLEY ENTERPRISE SOLUTIONS, INCORPORATED
$.01 par common
DR. SOLOMON'S GROUP, PLC
American Depository Receipts
DYNAMIC MATERIALS CORPORATION
$.05 par common
EASTWIND GROUP, INC.
$.10 par common
ECSOFT GROUP PLC
American Depository Receipts
EDUCATION MANAGEMENT CORPORATION
$.01 par common
EDUCATIONAL MEDICAL, INC.
$.01 par common
EIDOS PLC
American Depository Receipts
ELBIT MEDICAL IMAGING LTD.
Ordinary shares (1.0 NIS)
ELBIT SYSTEMS, LTD.
Ordinary shares (1.0 NIS)
ELTRAX SYSTEMS, INC.
$.01 par common
EMERGENT GROUP, INC.
$.05 par common
ENAMELON, INC.
$.001 par common
EPITOPE, INCORPORATED
No par common
EPL TECHNOLOGIES, INC.
$.001 par common
EROX CORPORATION
No par common
EXACTECH, INC.
$.01 par common
FACTORY CARD OUTLET CORPORATION
No par common
FEDERAL AGRICULTURAL MORTGAGE CORPORATION
Class C, non-voting, $1.00 par common
FINANCIAL SERVICES ACQUISITION CORPORATION
$.001 par common
Series A, warrants (expire 11–30–2001)
Series B, warrants (expire 11–30–2001)
FIREARMS TRAINING SYSTEMS, INC.
No par common
FIRST COASTAL CORPORATION
$1.00 par common
FIRST LANCASTER BANCSHARES, INC. (Kentucky)
$.01 par common
FIRST LEESPORT BANCORP, INC. (Pennsylvania)
$5.00 par common
FIRST MARINER BANCORP (Maryland)
$.05 par common
FIRST REGIONAL BANCORP (California)
No par common
FIRST VIRTUAL HOLDINGS INCORPORATED
$.001 par common
FLETCHER'S FINE FOODS LIMITED
No par common
FLORIDA PANTHERS HOLDINGS, INC.
Class A, $.01 par common
FORELAND CORPORATION
$.001 par common
FORRESTER RESEARCH, INC.
$.01 par common
GEOTEL COMMUNICATIONS CORPORATION
$.01 par common
GOLD BANC CORPORATION, INC.
$1.00 par common
GOLETA NATIONAL BANK (California)
$2.50 par common
GRANITE FINANCIAL, INC.
$.001 par common
HEALTHDYNE INFORMATION ENTERPRISES, INC.
$.01 par common
HEATLCARE FINANCIAL PARTNERS, INC.
$.01 par common
HIGHWAY HOLDINGS LIMITED
$.01 par common
Warrants (expire 01–01–2001)
HOME FINANCIAL BANCORP (Indiana)
No par common
HOMEGATE HOSPITALITY, INC.
$.01 par common
IA CORPORATION I
$.01 par common
INDEPENDENT BANK CORPORATION
No par cumulative trust preferred securities
INDIVIDUAL INVESTOR GROUP, INC.
$.01 par common
INDUSTRIAL HOLDINGS, INC.
Class C, warrants (expire 01–14–99)
INFINITY FINANCIAL TECHNOLOGY, INC.
No par common
INFORMATION MANAGEMENT RESOURCES, INC.
$.10 par common
INLAND RESOURCES, INC.
$.001 par common
INSCI CORPORATION
$.01 par common
INSTRUMENTATION LABORATORY SPA
American Depositary Receipts
INTEGRATED MEDICAL RESOURCES, INC.
$.001 par common
INTELIDATA TECHNOLOGIES CORPORATION
$.001 par common
INTERACTIVE FLIGHT TECHNOLOGIES, INC.
$.01 par common
INTERNATIONAL SPEEDWAY CORPORATION
Class A, $.01 par common
INTERNATIONAL TELECOMMUNICATION DATA SYSTEMS
$.01 par common
IRWIN FINANCIAL CORPORATION
No par cumulative preferred
K2 DESIGN, INC.
$.01 par common
KEVCO, INC.
$.01 par common
KIRLIN HOLDING CORPORATION
$.001 par common
LARSCOM INCORPORATED
Class A, $.01 par common
LB FINANCIAL, INC.
$.01 par common
LEADING EDGE PACKAGING, INC.
$.01 par common
LITHIA MOTORS, INC.
Class A, no par common
LONDON FINANCIAL CORPORATION
No par common
MANCHESTER EQUIPMENT CO., INC.
$.01 par common
MASTECH CORPORATION
$.01 par common
MAZEL STORES, INC.
No par common
MDSI MOBILE DATA SOLUTIONS, INC.
No par common
MEDCROSS, INC.
$.007 par common
MEDWAVE, INC.
No par common
MEGO MORTGAGE CORPORATION
$.01 par common

METRIS COMPANIES, INC.
$.01 par common
METROPOLITAN FINANCIAL CORPORATION
No par common
MIAMI COMPUTER SUPPLY CORPORATION
No par common
MICROSOFT CORPORATION
Series A, convertible exchangeable preferred
MLC HOLDINGS, INC.
$.01 par common
MONEY STORE, INC., THE
No par mandatory convertible preferred
MULTICANANL PARTICIPACOES, S.A.
American Depositary Receipts
MULTIMEDIA CONCEPTS INTERNATIONAL, INC.
$.001 par common
N-VISION, INC.
$.01 par common
NATIONAL SECURITIES CORPORATION
$.02 par common
NATIONSBANK CORPORATION
Depositary Shares
NATURAL ALTERNATIVES INTERNATIONAL
$.01 par common
NCO GROUP, INC.
No par common
NORTH PITTSBURGH SYSTEMS, INC.
$.1562 par common
NUWAVE TECHNOLOGIES, INC.
$.01 par common
O'GARA COMPANY, THE
$.01 par common
OFFSHORE ENERGY DEVELOPMENT CORPORATION
$.01 par common
ON COMMAND CORPORATION
Warrants (expire 10–08–2003)
Class B, warrants (expire 10–08–2003)
ONTRACK DATA INTERNATIONAL, INC.
$.01 par common
OPTIMAL ROBOTICS CORPORATION
Class A, no par common
PACIFIC CAPITAL BANCORP
No par common
PATIENT INFOSYSTEMS, INC.
$.01 par common
PJ AMERICA, INC.
$.01 par common
POWERWAVE TECHNOLOGIES, INC.
$.0001 par common
PRIMEX TECHNOLOGIES, INC.
$1.00 par common
PRIMUS TELECOMMUNICATIONS GROUP, INC.
$.01 par common
PROCOM TECHNOLOGY INCORPORATED
No par common
PROSOURCE, INC.
Class A, $.01 par common
PS FINANCIAL, INC.
$.01 par common
PUMA TECHNOLOGY, INC.
$.001 par common
RANKIN AUTOMOTIVE GROUP, INC.
$.01 par common
REAL GOODS TRADING CORPORATION
No par common
RIDGEVIEW, INC.
$.01 par common
ROADHOUSE GRILL, INC.
$.01 par common
ROGUE WAVE SOFTWARE, INC.
$.01 par common
ROSLYN BANCORP, INC. (New York)
$.01 par common
SANCHEZ COMPUTER ASSOCIATES, INC.
No par common
SEACHANGE INTERNATIONAL, INC.
$.01 par common
SEAMED CORPORATION
No par common
SECURITY BANK CORPORATION (Virginia)
$5.00 par common
SELECT APPOINTMENTS (HOLDINGS) PLC
American Depositary Receipts
SIBIA NEUROSCIENCES, INC.
$.001 par common
SIMULATION SCIENCES, INC.
$.001 par common
SKYMALL, INC.
$.001 par common
SMALLWORLDWIDE PLC
American Depositary Receipts
SMARTALK TELESERVICES, INC.
No par common
SOBIESKI BANCORP, INC. (Indiana)
$.01 par common
STAGE STORES, INC.
$.01 par common
STEEL DYNAMICS, INC.
$.01 par common
STEINER LEISURE LIMITED
$.01 par common
STEVEN MADDEN, LTD.
Class B, warrants (expire 02–13–98)
STYLING TECHNOLOGY CORPORATION
$.0001 par common
SUN HYDRAULICS CORPORATION
$.001 par common
SYMONS INTERNATIONAL GROUP, INC.
No par common
SYNTHETIC INDUSTRIES, INC.
$1.00 par common
T HQ, INC.
$.0001 par common
TCI SATELLITE ENTERTAINMENT, INC.
Series A, $1.00 par common
Series B, $1.00 par common
TEAM AMERICA CORPORATION
No par common
TECHDYNE, INC.
Warrants (expire 09–13–98)
TESCO CORPORATION
No par common
THINK NEW IDEAS, INC.
$.0001 par common
TICKETMASTER GROUP, INC.
No par common
TITAN EXPLORATION, INC.
$.01 par common
TITAN PHARMACEUTICALS, INC.
$.001 par common
TMP WORLDWIDE, INC.
No par common
TOWER TECH, INC.
$.001 par common
TRAMFORD INTERNATIONAL, LTD.
$.01 par common
Warrants (expire 12–13–99)
TRIANGLE PHARMACEUTICALS, INC.
$.001 par common
TTI TEAM TELECOM INTERNATIONAL, LTD.
Ordinary shares (NIS .5)
TWINLAB CORPORATION
$1.00 par common
TYSONS FINANCIAL CORPORATION
$5.00 par common
U.S. FRANCHISE SYSTEMS, INC.
$.01 par common
UNITED NATURAL FOODS, INC.
$.01 par common
UOL PUBLISHING, INC.
$.01 par common
UROHEALTH SYSTEMS, INC.
$.001 par common
Warrants (expire 03–20–97)
UROQUEST MEDICAL CORPORATION
$.001 par common
USTEL, INC.
$.01 par common
V-ONE CORPORATION
$.001 par common
VERSATILITY INC.
$.01 par common
VIASAT, INC.
$.01 par common
VIISAGE TECHNOLOGY, INC.
$.001 par common
VIMRX PHARMACEUTICALS, INC.
$.001 par common
VIRAGEN, INC.
$.01 par common
VIROPHARM, INC.
$.002 par common
VISUAL EDGE SYSTEMS, INC.
$.01 par common
VITECH AMERICA, INC.
No par common
VIVID TECHNOLOGIES, INC.
$.01 par common
VOXWARE, INC.
$.001 par common
WEST TELESERVICES CORPORATION
$.01 par common
WILD OATS MARKETS, INC.
$.001 par common
WILSHIRE FINANCIAL SERVICES GROUP, INC.
$.01 par common
WOODROAST SYSTEMS, INC.

$.005 par common
WOODWARD GOVERNOR COMPANY
$.0625 par common
WORLD HEART CORPORATION
No par common
WORLDCOM INC.
Depositary Shares
ZAG INDUSTRIES LIMITED
Ordinary shares (NIS .01)

Deletions From the Foreign Margin List

AUSTRALIA

PUBLISHING AND BROADCASTING LIMITED
Preferred, par A$1.00
TNT LIMITED
Ordinary shares, par A$0.50

DENMARK

A/S TH. WESSEL & VETT, MAGASIN DU NORD
C Shares, par 100 Danish krone
AARHUS OLIEFABRIK A/S
A Shares, par 100 Danish krone
ICOPAL A/S
Share Capital, par 100 Danish krone

FINLAND

KONE OY
B Shares, par 50 Finnish markka
MERITA LTD
A Shares, par 5 Finnish markka
METSA-SERLA OY
A Ordinary Shares, par 10 Finnish markka

FRANCE

CREDIT LOCAL DE FRANCE SA
Ordinary shares, par 100 French francs

HONG KONG

DAIRY FARM INTERNATIONAL HOLDINGS LTD.
Ordinary shares, HK$1.00 par
HONG KONG LAND HOLDINGS, LTD.
Ordinary Shares, $.10 par
JARDINE MATHESON HOLDINGS LIMITED
Ordinary shares, $0.25 par
JARDINE STRATEGIC HOLDINGS LIMITED
Ordinary shares, $.05 par
MANDARIN ORIENTAL INTERNATIONAL LIMITED
Ordinary shares, $.05 par

ITALY

FIDIS FINANZIARIA DI SVILUPPO SPA
Ordinary shares, par 1000 lira

JAPAN

NICHII CO., LTD.
Y 50 par common

MEXICO

GRUPO FINANCIERO BANCOMER S.A.
Series A, no par common

NORWAY

WILH. WILHELMSEN LIMITED AS
B Common Shares, par Norwegian krone

PHILIPPINES

SAN MIGEUEL CORPORATION
Common Shares, par 10 Philippine pesos

SWEDEN

MO OCH DOMSJO AB
A Free shares, par 50 Swedish krona
TIDNINGS AB MARIEBERG
A Free shares, par 10 Swedish krona

SWITZERLAND

CIBA-GEIGY AG
Bearer shares, par 20 Swiss francs
CIBA-GEIGY AG
Registered shares, par 20 Swiss francs
SANDOZ AG
Bearer shares, par 20 Swiss francs
SANDOZ AG
Registered shares, par 20 Swiss francs
WINTERTHUR SCHWEIZER. VERSICHERUNGS GES.
Registered shares, par 20 Swiss francs

THAILAND

FIRST BANGKOK CITY BANK PUBLIC CO. LTD.
Ordinary shares, par 15 Thai baht

UNITED KINGDOM

RANK ORGANISATION PLC
Ordinary shares, par 10 p
REFUGE GROUP PLC
Ordinary shares, par 5 p
RENTOKIL GROUP PLC
Ordinary shares, par 2 p
THORN EMI PLC
Ordinary shares, par 25 p

Additions to the Foreign Margin List

AUSTRALIA

NATIONAL MUTUAL HOLDINGS, LTD.
Ordinary shares, par A$.50

DENMARK

CHEMINOVA HOLDINGS A/S
B ordinary shares, par 100 Danish krone
CODAN FORSIKRING A/S
Ordinary shares, par 100 Danish krone
FALCK A/S
Ordinary shares, par 100 Danish krone
MICRO MATIC HOLDINGS A/S
Ordinary shares, par 100 Danish krone
OSTASIATISKE KOMPAGNI (EAST ASIATIC CO., LTD.)
Ordinary shares, par 100 Danish krone
OTICON HOLDING A/S
Ordinary shares, par 20 Danish krone
TRYG-BALTICA FORSKIRING A/S
Registered shares, par 20 Danish krone

FINLAND

FINNAIR OY
Ordinary shares, par 50 Finnish markka
KEMIRA OY
Ordinary shares, par 50 Finnish markka
ORION-YHTYMA OY
A Series, par 10 Finnish markka
ORION-YHTYMA OY
B Series, par 10 Finnish markka
RAISON TEHTAAT VAIH OS OY AB
K Series common, par 10 Finnish markka
SAMPO INSURANCE CO., LTD.
A Ordinary Shares, par 20 Finnish markka
STOCKMANN OY AB
B Free Shares, par 20 Finnish markka
TAMRO OY AB
Ordinary shares, par 10 Finnish markka

FRANCE

CLF–DEXIA FRANCE SA
Ordinary Shares, par 100 French francs

GERMANY

DEUTSCHE TELEKOM
Ordinary shares, par DM 5

NORWAY

BONHEUR AS
Free Shares, par 5 Norwegian krone
FOKUS BANK AS
Registered Shares, par 11 Norwegian krone
HELIKOPTER SERVICES GROUP AS
Ordinary Shares, par 11.50 Norwegian krone
NARVESEN AS
A Common Shares, par 5 Norwegian krone
NCL HOLDINGS AS
Free Shares, par 2.3 Norwegian krone
NERA AS
Ordinary Shares, par 10 Norwegian krone
NET COM AS
A Free Shares, par 50 Norwegian krone

PHILIPPINES

SAN MIGEUEL CORPORATION
Class B Common Shares, par 10 Philippine pesos

SINGAPORE

DAIRY FARM INTERNATIONAL HOLDINGS, LTD.
Ordinary Shares, par $.05
HONG KONG LAND HOLDINGS, LTD.
Ordinary Shares, par $.10
JARDINE MALLIESON HOLDINGS, LTD.
Ordinary Shares, par $.25

JARDINE STRATEGIC HOLDINGS, LTD.
Ordinary Shares, par $.05
MANDARIN ORIENTAL INTERNATIONAL, LTD.
Ordinary Shares, $.05 par

SWEDEN

ASSI DOMAN AB
Free Shares, par 10 Swedish krona
AVESTA SHEFFIELD AB
Free Shares, par 10 Swedish krona
SPARBANKEN SVERIGE AB (Swedbank)
Series A, par 10 Swedish krona
STADSHYPOTEK AB
A Free Shares, par 10 Swedish krona

SWITZERLAND

NOVARTIS AG
Bearer shares, par 20 Swiss francs
NOVARTIS AG
Registered shares, par 20 Swiss francs

UNITED KINGDOM

RANK GROUP PLC
Ordinary shares, par 10 p
RENTOKIL INITIAL (UK) PLC
Ordinary shares, par 2 p
UNITED ASSURANCE GROUP PLC
Ordinary shares, par 5 p

By order of the Board of Governors of the Federal Reserve System, acting by its Director of the Division of Banking Supervision and Regulation pursuant to delegated authority (12 CFR 265.7(f)(10)), January 21, 1997.

William W. Wiles,

Secretary of the Board.

[FR Doc. 97–1862 Filed 1–24–97; 8:45 am]

BILLING CODE 6210–01–P

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

12 CFR Parts 502, 516, 562, 563, 565, 574

[No. 97–6]

RIN 1550–AA99

Regulatory Citations to Uniform Financial Institutions Rating System

AGENCY: Office of Thrift Supervision, Treasury (OTS).

ACTION: Final rule.

SUMMARY: In the December 19, 1996 issue of the Federal Register, the Federal Financial Institutions Examination Council (FFIEC) published changes to the Uniform Financial Institutions Rating System (UFIRS). The OTS is making conforming changes to OTS regulations that cross-reference the UFIRS, confirming that these regulations are intended to refer to the UFIRS as it is revised from time to time.

EFFECTIVE DATE: February 26, 1997.

FOR FURTHER INFORMATION CONTACT: William J. Magrini, Senior Project Manager, Supervision Policy, (202) 906–5744, or Karen Osterloh, Assistant Chief Counsel, Regulations and Legislation Division, (202) 906–6639, Regulations and Legislation Division, Chief Counsel's Office, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552.

SUPPLEMENTARY INFORMATION:

I. Background

The UFIRS is a supervisory rating system used by the OTS and other agencies represented on the FFIEC to evaluate the soundness of depository institutions on a uniform basis. The agencies have implemented the UFIRS through CAMEL ratings. Under CAMEL, the agencies have organized the relevant UFIRS factors into five major areas (*C*apital Adequacy, *A*sset Quality, *M*anagement, *E*arnings, and *L*iquidity). In the July 18, 1996 issue of the Federal Register, the FFIEC proposed to add a sixth component to the UFIRS system, *S*ensitivity to Market Risk. Currently, market risk is evaluated within other rating areas. The FFIEC also proposed to reformat and clarify the rating descriptions; to revise the rating system to emphasize risk management processes; and to make other changes. The FFIEC published a notice of the final text of the UFIRS in the December 19, 1996 issue of the Federal Register.

Under OTS regulations, CAMEL ratings are currently used: (1) To define ''troubled savings association'' for purposes of OTS assessments, 12 CFR 502.1; (2) to determine if a savings association is eligible for expedited or standard treatment under the application processing guidelines, 12 CFR part 516; (3) to determine when an independent audit is required for safety and soundness purposes and to determine whether the Director may waive this independent audit requirement, 12 CFR 562.4; (4) to determine when the OTS may require a savings association and its subsidiaries to provide notification before entering into transactions with affiliates, 12 CFR 563.41; (5) to define ''adequately capitalized'' and ''undercapitalized'' under the prompt corrective action regulation, 12 CFR part 565; (6) to determine whether a savings association should be reclassified based on supervisory criteria other than capital for the purposes of the prompt corrective action regulation, 12 CFR Part 565; and (7) to define a savings association in ''troubled condition'' under rules requiring prior notice of the addition of any individual to the board of directors or the employment of any individual as senior executive officer, 12 CFR 574.9.

Most of these regulations currently refer to ''CAMEL'' ratings. Because the proposed changes to UFIRS would make these references obsolete, the OTS proposed revisions to its regulations on July 23, 1996.[1] The OTS proposed to revise its regulations to refer more generally to the UFIRS as it may exist from time to time or to any comparable rating system that the OTS may adopt in lieu of UFIRS.

Two other minor changes were also proposed. First, for the sake of consistency and to prevent confusion, the OTS proposed to revise each regulation that will cross reference UFIRS to indicate that the OTS will use the most recent rating (as determined either on-site or off-site by the most recent examination) of which the savings association has been notified in writing. Currently, some of the cited regulations include this provision, while others do not.

Additionally, the OTS proposed to clarify 12 CFR 562.4. Currently, that regulation requires, *inter alia*, all institutions receiving a rating of 3, 4 or 5 to obtain an independent audit unless the Director ''determines that an audit would not address the safety and soundness issues that caused the (low) examination rating.'' The OTS proposed to modify § 562.4 to better reflect when OTS may waive the audit requirement. As proposed, a waiver may be granted if an audit ''would not provide further information on safety and soundness issues relevant to the examination rating.''

Summary of Comments and Description of the Final Rule

The OTS received one comment on the proposed rule changes. This commenter suggested that the OTS delay changing references to a rating system until the FFIEC determines whether the existing rating system should be modified and designates a new acronym. The commenter supported all other clarifying changes to the OTS rules.

As noted above, FFIEC has finalized its changes to the UFIRS system. In any event, under the OTS proposal, the regulations would refer generally to the UFIRS as it may exist from time to time, or to a comparable rating system that the

[1] 61 FR 38114 (July 23, 1996).

OTS may adopt in lieu of UFIRS. The proposed rule did not refer specifically to the then-existing UFIRS system (*i.e.*, CAMEL) or to the proposed rating system then under consideration by FFIEC (*i.e.*, CAMELS). By referring to UFIRS, rather than acronyms adopted from time to time to describe UFIRS, the proposed rule would obviate the need to make regulatory amendments if the FFIEC or the OTS proposes changes to the rating system in the future.

The proposed rule is therefore adopted without substantial modifications.[2] Since the publication of the proposed regulation, the OTS has removed former § 563.170(c)(10) as part of its Lending and Investments regulation,[3] eliminating the need for the proposed UFIRS change to that section.

III. Paperwork Reduction Act

Reporting and recordkeeping requirements in this final rule are currently found in 12 CFR 563.41(e) and 574.9. These requirements are addressed in the following OMB approved packages: Control Nos. 1550–0078 and 1550–0047. The reporting burden under this package remains unchanged under the rule.

IV. Executive Order 12866

The Director of the OTS has determined that this final rule does not constitute a ''significant regulatory action'' for the purposes of Executive Order 12866.

V. Unfunded Mandates Act of 1995

The OTS has determined that the requirements of this final rule will not result in expenditures by state, local, or tribal governments or by the private sector of more than $100 million. Accordingly, a budgetary impact statement is not required under section 202 of the Unfunded Mandates Act of 1995.

VI. Regulatory Flexibility Act Analysis

Pursuant to section 605(b) of the Regulatory Flexibility Act, the OTS certifies that this final rule will not have a significant economic impact on a substantial number of small entities. The OTS does not anticipate that the application of the revised UFIRS rating system will result in a change in composite ratings assigned to depository institutions. Today's rule will merely reduce confusion by updating the terminology used in the OTS regulations to reflect the current rating system.

VII. Effective Date

Section 302 of CDRIA delays the effective date of regulations promulgated by the Federal banking agencies that impose additional reporting, disclosure, or new requirements to the first day of the first calendar quarter following publication of the final rule. OTS believes that CDRIA does not apply to this final rule because it imposes no new burden. The revisions will merely reduce confusion by updating the terminology used in the OTS regulations to reflect the current rating system.

List of Subjects

12 CFR Part 502

Assessments, Federal Home Loan Banks.

12 CFR Part 516

Administrative practice and procedure, Reporting and recordkeeping requirements, Savings associations.

12 CFR Part 562

Accounting, Reporting and recordkeeping requirements, Savings associations.

12 CFR Part 563

Accounting, Advertising, Conflicts of Interest, Corporate Opportunity, Crime, Currency, Investments, Reporting and recordkeeping requirements, Savings associations, Securities, Surety bonds.

12 CFR Part 565

Administrative practice and procedure, Capital, Savings associations.

12 CFR Part 574

Administrative practice and procedure, Holding companies, Reporting and recordkeeping requirements, Savings associations, Securities.

Authority and Issuance

Accordingly, the Office of Thrift Supervision amends chapter V, title 12, Code of Federal Regulations, as set forth below.

PART 502—ASSESSMENTS

1. The authority citation for part 502 is revised to read as follows:

Authority: 12 U.S.C. 1462a, 1463, 1467, 1467a.

2. Section 502.1 is amended by revising paragraph (f) to read as follows:

§ 502.1 Asset-based assessments.

* * * * *

(f) *Definition*. For purposes of this section only, a troubled savings association shall be defined as a savings association with a composite rating of 4 or 5, as defined in § 516.3(c) of this chapter. A troubled savings institution also includes a savings association in conservatorship so long as the association requires increased supervision and examination by the Office.

* * * * *

PART 516—APPLICATION PROCESSING GUIDELINES AND PROCEDURES

3. The authority citation for part 516 continues to read as follows:

Authority: 5 U.S.C. 552, 559; 12 U.S.C. 1462a, 1463, 1464.

4. Section 516.3 is amended by revising paragraphs (a)(1)(i), (b)(1)(i), and (c) to read as follows:

§ 516.3 Definitions.

(a) * * *

(1) * * *

(i) The savings association has a composite rating of 1 or 2;

* * * * *

(b) * * * (1) * * *

(i) The savings association has a composite rating of 3, 4 or 5;

* * * * *

(c) *Composite rating.* Composite rating means the composite numerical rating assigned to the savings association by the OTS under the Uniform Financial Institutions Rating System[1] or an equivalent rating under a comparable rating system adopted by the OTS, and refers to the most recent rating (as determined either on-site or off-site by the most recent examination) of which the savings association has been notified in writing.

* * * * *

PART 562—REGULATORY REPORTING STANDARDS

5. The authority citation for part 562 continues to read as follows:

Authority: 12 U.S.C. 1463.

6. Section 562.4 is amended by revising paragraphs (b)(1) and (c)(2) to read as follows:

§ 562.4 Audit of savings associations and savings association holding companies.

* * * * *

(b) * * *

[2] The OTS previously proposed a revision to the capital distributions regulation at 12 CFR 563.134 that would define ''troubled condition'' by reference to the examination rating system. 59 FR 62356 (December 5, 1994). When that regulation is finalized, it will also include appropriate references to the revised UFIRS system.

[3] 61 FR 50951 (September 30, 1996).

[1] Copies are available at the address specified in § 516.1 of this part.

(1) If a savings association has received a composite rating of 3, 4 or 5, as defined at § 516.3(c) of this chapter; or

* * * * *

(c) * * *

(2) The Director may waive the independent audit requirement described at paragraph (b)(1) of this section, if the Director determines that an audit would not provide further information on safety and soundness issues relevant to the examination rating.

* * * * *

PART 563—OPERATIONS

7. The authority citation for part 563 continues to read as follows:

Authority: 12 U.S.C. 375b, 1462, 1462a, 1463, 1464, 1467a, 1468, 1817, 1828, 3806.

8. Section 563.41 is amended by revising paragraph (e)(2)(ii)(A) to read as follows:

§ 563.41 Loans and other transactions with affiliates and subsidiaries.

* * * * *

(e) * * *

(2) * * *

(ii) * * *

(A) Has a composite rating of 4 or 5, as defined in § 516.3(c) of this chapter;

* * * * *

PART 565—PROMPT CORRECTIVE ACTION

9. The authority citation for part 565 continues to read as follows:

Authority: 12 U.S.C. 1831o.

10. Section 565.4 is amended by revising paragraphs (b)(2)(iii)(B), (b)(3)(iii)(B), and (c)(2) to read as follows:

§ 565.4 Capital measures and capital category definitions.

* * * * *

(b) * * *

(2) * * *

(iii) * * *

(B) A leverage ratio of 3.0 percent or greater if the savings association is assigned a composite rating of 1, as defined in § 516.3(c) of this chapter; and

* * * * *

(3) * * *

(iii)(A) * * *

(B) Has a leverage ratio that is less than 3.0 percent if the savings association is assigned a composite rating of 1, as defined in § 516.3(c) of this chapter.

* * * * *

(c) * * *

(2) *Unsafe or unsound practice.* The OTS has determined, after notice and an opportunity for hearing pursuant to § 565.8(a) of this part, that the savings association received a less-than-satisfactory rating for any rating category (other than in a rating category specifically addressing capital adequacy) under the Uniform Financial Institutions Rating System,[1] or an equivalent rating under a comparable rating system adopted by the OTS; and has not corrected the conditions that served as the basis for the less than satisfactory rating. Ratings under this paragraph (c)(2) refer to the most recent ratings (as determined either on-site or off-site by the most recent examination) of which the savings association has been notified in writing.

PART 574—ACQUISITION OF CONTROL OF SAVINGS ASSOCIATIONS

11. The authority citation for part 574 continues to read as follows:

Authority: 12 U.S.C. 1467a, 1817, 1831i.

12. Section 574.9 is amended by revising paragraph (a)(5)(i)(A) to read as follows:

§ 574.9 Additions of directors and employment of senior executive officers of savings associations and savings and loan holding companies.

(a) * * *

(5) * * *

(i) * * *

(A) Has a composite rating of 4 or 5, as defined in § 516.3(c) of this chapter;

* * * * *

Dated: January 15, 1997.

By the Office of Thrift Supervision.

Nicolas P. Retsinas,

Director.

[FR Doc. 97–1811 Filed 1–24–97; 8:45 am]

BILLING CODE 6720–01–P

[1] Copies are available at the address specified in § 516.1 of this chapter.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97–NM–01–AD; Amendment 39–9895; AD 97–02–10]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas Model DC–9, DC–9–80, and C–9 (Military) Series Airplanes, Model MD–88 Airplanes, and Model MD–90 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to certain McDonnell Douglas Model DC–9, DC–9–80, and C–9 (military) series airplanes, Model MD–88 airplanes, and Model MD–90 airplanes. This action requires a visual check to determine the part and serial numbers of the upper lock link assembly of the nose landing gear (NLG); repetitive inspections of certain upper lock link assemblies to detect fatigue cracking; and modification of the NLG. This action also provides for terminating action for the repetitive inspections. This amendment is prompted by a report indicating that, due to fatigue cracking, the upper lock link assembly on an airplane fractured, and consequently prevented the NLG from extending fully. The actions specified in this AD are intended to prevent this assembly from fracturing due to fatigue cracking, and the NLG consequently failing to extend fully; this condition could result in injury to passengers and flight crew, and damage to the airplane.

DATES: Effective February 11, 1997.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of February 11, 1997.

Comments for inclusion in the Rules Docket must be received on or before March 28, 1997.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 97–NM–01–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

The service information referenced in this AD may be obtained from McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach,

California 90846, Attention: Technical Publications Business Administration, Department C1–L51 (2–60). This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Brent Bandley, Aerospace Engineer, Airframe Branch, ANM–120L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712; telephone (310) 627–5237; fax (310) 627–5210.

SUPPLEMENTARY INFORMATION: The FAA has recently received a report indicating that the upper lock link assembly of the nose landing gear (NLG) on a McDonnell Douglas DC–9–80 series airplane failed prior to landing. As a result of this failure, the airplane sustained moderate damage to the forward lower fuselage.

An investigation by the operator revealed that this assembly had fractured and jammed against the shock strut, which prevented the NLG from extending fully. This fracture was caused by fatigue cracking that originated at the lower end of the assembly where the flange and inner radius meet. The operator also detected similar fatigue cracking in two other upper lock link assemblies during an inspection of other airplanes in its fleet.

An upper lock link assembly can be either manufactured from aluminum plate or forged from aluminum. The three cracked assemblies that were detected were aluminum plate, a material which has a much shorter fatigue life than forged aluminum. In addition to Model DC–9–80 series airplanes, assemblies of aluminum plate may be installed on Model DC–9 and C–9 (military) series airplanes, Model MD–88 airplanes, and Model MD–90 airplanes.

Fracturing of the upper lock link assembly due to fatigue cracking, if not corrected, can result in the failure of the NLG to extend fully, which could lead to injury to passengers and flight crew, and damage to the airplane.

Explanation of Relevant Service Information

The FAA has reviewed and approved McDonnell Douglas Alert Service Bulletin DC9–32A298 [for Model DC–9, DC–9–80, and C–9 (military) series airplanes, and Model MD–88 airplanes], and McDonnell Douglas Alert Service Bulletin MD90–32A019 [for Model MD–90 airplanes], both dated December 19, 1996. Both alert service bulletins describe procedures for conducting a visual check of the part number and serial number on the upper lock link assembly of the NLG to identify whether an assembly has been forged from aluminum (an ''exempt upper lock link assembly''), or has been manufactured from aluminum plate (a ''possible discrepant upper lock link assembly''). No further action is necessary if an exempt upper lock link assembly is installed.

Both alert service documents also describe procedures for conducting repetitive high frequency eddy current inspections or Type I fluorescent penetrant inspections to detect fatigue cracking in a possible discrepant upper lock link assembly. When fatigue cracking is detected in this upper lock link assembly or when the assembly's safe life (46,500 cycles of the NLG) has been reached, the pin assembly of the NLG is to be replaced with a new or serviceable pin assembly. (The upper lock link assembly is contained within the pin assembly.) If the pin assembly is replaced with one that contains an exempt upper lock link assembly, the need for subsequent repetitive inspections and replacement of parts is eliminated.

Explanation of the Requirements of the Rule

Since an unsafe condition has been identified that is likely to exist or develop on other McDonnell Douglas Model DC–9, DC–9–80, and C–9 (military) series airplanes, Model MD–88 airplanes, and Model MD–90 airplanes, of the same type design, this AD is being issued to prevent fracturing of the upper lock link assembly due to fatigue cracking, and the consequent failure of the NLG to extend fully, which could lead to injury to passengers and flight crew, and damage to the airplane.

This AD requires a visual check of the part number and serial number on the upper lock link assembly to identify whether this assembly is a possible discrepant assembly or an exempt assembly. (No further action is required if an upper lock link assembly is an exempt assembly.)

This AD also requires repetitive high frequency eddy current inspections or Type I fluorescent penetrant inspections of any possible discrepant upper lock link assembly to detect fatigue cracking. When fatigue cracking is detected in the upper lock link assembly, this AD requires that the pin assembly of the NLG be replaced with a new or serviceable pin assembly. The operator, at its option, may install a replacement pin assembly that contains an exempt, rather than a possible discrepant, upper lock link; this substitution terminates the requirement for repetitive inspections.

The actions are required to be accomplished in accordance with the applicable alert service bulletin described previously.

Interim Action

This is considered to be interim action. The manufacturer has advised that it currently is developing a modification that will positively address the unsafe condition addressed by this AD. Once this modification is developed, approved, and available, the FAA may consider additional rulemaking.

Determination of Rule's Effective Date

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and opportunity for prior public comment hereon are impracticable, and that good cause exists for making this amendment effective in less than 30 days.

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting flight safety and, thus, was not preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES**. All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact

concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 97–NM–01–AD.'' The postcard will be date stamped and returned to the commenter.

Regulatory Impact

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The FAA has determined that this regulation is an emergency regulation that must be issued immediately to correct an unsafe condition in aircraft, and that it is not a ''significant regulatory action'' under Executive Order 12866. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket. A copy of it, if filed, may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

97–02–10 McDonnell Douglas: Amendment 39–9895. Docket 97–NM–01–AD.

Applicability: Model DC–9, DC–9–80, and C–9 (military) series airplanes, Model MD–88 airplanes, and Model MD–90 airplanes; as listed in McDonnell Douglas Alert Service Bulletins DC9–32A298 [for Model DC–9, DC–9–80, and C–9 (military) series airplanes, and Model MD–88 airplanes], and McDonnell Douglas Alert Service Bulletin MD90–32A019 [for Model MD–90 airplanes], both dated December 19, 1996; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been otherwise modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (e) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent fracturing of the upper lock link assembly of the nose landing gear (NLG) due to fatigue cracking, and the consequent failure of the NLG to extend fully, which could lead to injury to passengers and flight crew, and damage to the airplane, accomplish the following:

(a) Prior to the accumulation of 10,000 total cycles of the NLG, or within 90 days after the effective date of this AD, whichever occurs later, conduct a visual check of the upper lock link assembly of the NLG to determine its part and serial number, in accordance with McDonnell Douglas Alert Service Bulletin DC9–32A298 [for Model DC–9, DC–9–80, and C–9 (military) series airplanes, and Model MD–88 airplanes], or McDonnell Douglas Alert Service Bulletin MD90–32A019 [for Model MD–90 airplanes], both dated December 19, 1996, as applicable.

(b) If the part number and serial number of the upper lock link assembly are listed in paragraph (b)(1) or (b)(2) of this AD (''an exempt upper lock link assembly''), no further action is required.

Note 2: An ''exempt upper lock link assembly'' as specified in paragraph (b) of this AD is an assembly that is manufactured of forged aluminum.

(1) For Model DC–9, DC–9–80, and C–9 (military) series airplanes, and Model MD–88 airplanes: Part Number (P/N) 3914464-(any configuration) having serial numbers (S/N) HMI001 through HMI172 inclusive, or S/N WPI1000 and subsequent; or P/N 5920472-(any configuration) having any serial number.

(2) For Model MD–90 airplanes: P/N 3914464–503 having S/N HMI001 through HMI172 inclusive, or S/N WPI1000 and subsequent.

(c) If the part number and serial number of the upper lock link assembly are not listed in paragraph (b)(1) or (b)(2) of this AD (a ''possible discrepant upper lock link assembly''), except as provided by paragraph (c)(3) of this AD, prior to further flight, conduct either a high frequency eddy current inspection or a Type I fluorescent penetrant inspection of this assembly to detect fatigue cracks, in accordance with McDonnell Douglas Alert Service Bulletin DC9–32A298 [for Model DC–9, DC–9–80, and C–9 (military) series airplanes, and Model MD–88 airplanes], or McDonnell Douglas Alert Service Bulletin MD90–32A019 [for Model MD–90 airplanes], both dated December 19, 1996.

Note 3: A ''possible discrepant upper lock link assembly'' as specified in paragraph (c) of this AD is an assembly that may be manufactured from aluminum plate.

(1) If no crack is detected, repeat either type of inspection required by paragraph (c) of this AD at intervals not to exceed 5,000 cycles of the NLG.

(2) If any crack is detected, prior to further flight, replace the pin assembly of the NLG in accordance with the applicable alert service bulletin.

(3) A Type I fluorescent penetrant inspection of the upper lock link assembly that has been conducted within the last 12 months prior to the effective date of this AD and in accordance with the DC–9 Overhaul Manual or MD–90 Component Manual, Chapter 20–70–2, is considered acceptable for compliance with the initial inspection required by paragraph (c) of this AD. If no crack was detected during that inspection, subsequent repetitive inspections are required to be accomplished at the intervals specified in paragraph (c)(1) of this AD.

(d) When replacement of the pin assembly of the NLG is required in accordance with paragraph (c)(1) or (c)(2) of this AD:

(1) If the pin assembly is replaced with a new assembly that contains a possible discrepant upper lock assembly: After the pin assembly has been replaced, repeat the inspection required by paragraph (c) of this AD prior to the accumulation of 10,000 cycles of the NLG.

(2) If the pin assembly is replaced with a serviceable assembly that contains a possible discrepant upper lock assembly: After the pin assembly has been replaced, repeat the inspection required by paragraph (c) of this AD either prior to the accumulation of 10,000 total cycles of the NLG for that pin assembly, or prior to further flight, whichever occurs later.

(3) If the pin assembly is replaced with a pin assembly that contains an exempt upper lock link assembly: No further action is required. This installation constitutes terminating action for the repetitive inspections required by this AD.

(e) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Los Angeles Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate. Operators shall submit their requests through

an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Los Angeles ACO.

Note 4: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Los Angeles ACO.

(f) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(g) The visual check, repetitive inspections, and replacement of the pin assembly of the NLG shall be done in accordance with McDonnell Douglas Alert Service Bulletin DC9–32A298, dated December 19, 1996; or McDonnell Douglas Alert Service Bulletin MD90–32A019, dated December 19, 1996; as applicable. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Technical Publications Business Administration, Department C1–L51 (2–60). Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(h) This amendment becomes effective on February 11, 1997.

Issued in Renton, Washington, on January 14, 1997.

S. R. Miller,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 97–1438 Filed 1–24–97; 8:45 am]

BILLING CODE 4910–13–P

14 CFR Part 39

[Docket No. 95–NM–192–AD; Amendment 39–9906; AD 97–02–21]

RIN 2120–AA64

Airworthiness Directives; Empresa Brasileira de Aeronautica, S.A. (EMBRAER) Model EMB–120 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain EMBRAER Model EMB–120 series airplanes, that requires repetitive inspections to detect cracks in the wing rib-to-skin support brackets (shear clips), and replacement of cracked brackets with new or serviceable brackets. This amendment also requires the eventual replacement of certain brackets with new brackets, which terminates the requirement for the inspections. This amendment is prompted by reports of cracks in certain wing rib-to-skin support brackets in both the lower and upper skin of the wings. The actions specified by this AD are intended to prevent cracking of those support brackets, which can subsequently lead to the loosening of the rivets in the wing skin, leakage of fuel through the rivet holes, and, ultimately, the reduction of the structural integrity of the wing.

DATES: Effective March 3, 1997.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of March 3, 1997.

ADDRESSES: The service information referenced in this AD may be obtained from Empresa Brasileira de Aeronautica, S.A. (EMBRAER), Sao Jose dos Campos—SP, Brazil. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Atlanta Aircraft Certification Office, Small Airplane Directorate, Campus Building, 1701 Columbia Avenue, Suite 2–160, College Park, Georgia; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Curtis Jackson, Aerospace Engineer, Airframe and Propulsion Branch, ACE–117A, FAA, Atlanta Aircraft Certification Office, Small Airplane Directorate, Campus Building, 1701 Columbia Avenue, Suite 2–160, College Park, Georgia 30337–2748; telephone (404) 305–7358; fax (404) 305–7348.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain EMBRAER Model EMB–120 series airplanes was published in the Federal Register on April 24, 1996 (61 FR 17853). That action proposed to require repetitive inspections to detect cracks in the wing rib-to-skin support brackets (shear clips), and replacement of cracked brackets with new or serviceable brackets. That action also proposed to require the eventual replacement of certain brackets with new brackets, which would terminate the requirement for the inspections.

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the single comment received.

Request to Delete Inspection Requirement

The only commenter, a U.S. operator, requests that the proposal be revised to delete the requirement to conduct repetitive inspections of the brackets. This commenter states that the subject area already is inspected by its flight crews on preflight inspections, and by its mechanics on daily inspections and line checks. The commenter considers that the need for the inspection requirement, and the extra paperwork that would be involved, cannot be justified by any data. This commenter, who operates 63 of the affected airplanes, indicates that it has analyzed the last 12 months of data on fuel leaks in its fleet; the data indicate that there have been 43 fuel leaks associated with leaking rivets, but there were no broken or cracked brackets found.

The FAA does not concur with the commenter's request. While this commenter specifically may not have found cracked brackets, there have been several cases reported by other operators in which fuel leaks caused by broken or cracked brackets were discovered on in-service airplanes. The FAA finds that the proposed inspection requirement will be effective in finding and addressing fuel leakage, and any associated cracking of a support bracket, well before more serious problems associated with these conditions could occur. The FAA also points out that operators may discontinue the inspections once the newly designed brackets are installed and follow-on actions are accomplished.

Request to Clarify ''New'' and ''Old'' Bracket Design

This same commenter requests clarification regarding the types of replacement brackets that are required to be installed. Specifically, the commenter questions whether it would be acceptable to install ''old style'' brackets as replacement parts in cases where no ''new style'' brackets are available.

The FAA concurs that clarification is necessary. If cracking is found in the brackets at ribs 15, 16, or 18, and the extent of the cracking necessitates replacement, operators may install either another new or serviceable ''old style'' bracket having the same part number; or a ''new style'' bracket, having a part number that is specified in paragraph 3.1. of EMBRAER Service Bulletin 120–57–0031. However, terminating action consists of replacing

those brackets at ribs 15, 16, and 18 with only the ''new style'' brackets.

On the other hand, if cracking is found in brackets at other rib locations (namely, ribs 19, 20, 21, and 22), only the ''old style'' brackets (same part number) are required to be installed as replacement parts at those locations.

The final rule has been revised to clarify these points.

Revision of Format of Final Rule

The format of the final rule has been revised somewhat to follow more closely the format of procedures as they are presented in the referenced EMBRAER Service Bulletin 120–57–0031, dated July 6, 1995. The FAA considers that this reformatting will help to clarify the required procedures for affected operators.

Conclusion

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the changes previously described. The FAA has determined that these changes will neither increase the economic burden on any operator nor increase the scope of the AD.

Cost Impact

The FAA estimates that 169 airplanes of U.S. registry will be affected by this AD.

It will take approximately 6 work hours per airplane to accomplish the required visual inspection for cracking, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the inspection action on U.S. operators is estimated to be $60,840, or $360 per airplane, per inspection cycle.

It will take approximately 56 work hours to accomplish the required replacement of support brackets, at an average labor rate of $60 per work hour. Required parts will cost approximately $1,000 per airplane. Based on these figures, the cost impact of the replacement action on U.S. operators is estimated to be $736,840, or $4,360 per airplane.

The cost impact figures discussed above are based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

Regulatory Impact

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

97–02–21 Embraer: Amendment 39–9906. Docket 95–NM–192–AD.

Applicability: Model EMB–120 airplanes, serial numbers 120001, 120003, 120004, and 120006 through 120304 inclusive; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been otherwise modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (e) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent reduced wing structural integrity and fuel leakage of the wing due to cracking of wing rib-to-skin support brackets, accomplish the following:

Note 2: The term ''fuel leakage'' and ''stain,'' as used throughout this AD, are used as they are defined and classified in Chapter 28, Fuel, of the Airplane Maintenance Manual (AMM).

(a) Within 10 days after the effective date of this AD: Perform a visual inspection of the wing skin along rib lines 15 and 16 to detect any fuel leakage other than a stain. Thereafter, repeat this inspection every 50 flight hours until the requirements of paragraph (d) of this AD are accomplished.

(b) As a result of the inspection required by paragraph (a) of this AD, accomplish either paragraph (b)(1) or (b)(2), as applicable:

(1) If fuel leakage is detected during any inspection required by paragraph (a) of this AD: Within 50 flights after detection of fuel leakage, perform an internal visual inspection to detect cracking of the wing rib-to-skin support brackets (shear clips) that connect the lower and upper wing skins to ribs 15 and 16, in accordance with the Accomplishment Instructions, PART I, of EMBRAER Service Bulletin 120–57–0031, dated July 6, 1995.

(2) If no fuel leakage is detected during any inspection required by paragraph (a) of this AD: At the applicable time specified in paragraph (b)(2)(i) through (b)(2)(iv) of this AD, perform an internal visual inspection to detect cracking of the wing rib-to-skin support brackets (shear clips) that connect the lower and upper wing skins to ribs 15 and 16, in accordance with the Accomplishment Instructions, PART I, of EMBRAER Service Bulletin 120–57–0031, dated July 6, 1995.

(i) For airplanes that have accumulated less than 4,000 total flight cycles as of the effective date of this AD: Inspect prior to the accumulation of 5,200 total flight cycles, or within 1,200 flight cycles after the effective date of this AD, whichever occurs later.

(ii) For airplanes that have accumulated 4,000 or more total flight cycles, but less than 8,000 total flight cycles as of the effective date of this AD: Inspect within 1,200 flight cycles after the effective date of this AD.

(iii) For airplanes that have accumulated 8,000 or more total flight cycles, but less than 12,000 total flight cycles as of the effective date of this AD: Inspect within 800 flight cycles after the effective date of this AD.

(iv) For airplanes that have accumulated 12,000 or more total flight cycles as of the effective date of this AD: Inspect within 400 flight cycles after the effective date of this AD.

(c) As a result of the internal visual inspection to detect cracking of the wing rib-to-skin support brackets (shear clips) that connect the lower and upper wing skins to ribs 15 and 16, as required by paragraph (b) of this AD, accomplish the actions specified in paragraph (c)(1), (c)(2), or (c)(3), as applicable:

(1) If no cracking is detected: Repeat that internal visual inspection thereafter at intervals not to exceed 1,200 flight cycles until the requirements of paragraph (d) of this AD are accomplished.

(2) If any cracking is detected in only one wing skin support bracket, and that cracking is more than half the length of the bracket; and if any cracking also is detected in up to two additional wing skin support brackets and that cracking is less than half the length of the bracket: Repeat that internal visual inspection thereafter at intervals not to exceed 400 flight cycles, until the requirements of paragraph (d) of this AD are accomplished.

(3) If any cracking is detected other than that specified in paragraph (c)(2) of this AD: Prior to further flight, replace any support bracket that is cracked beyond the limits specified in paragraph (c)(2) of this AD either with a new or serviceable bracket having the same part number, or with a new style bracket having a part number specified in paragraph 3.1. of EMBRAER Service Bulletin 120–57–0031, dated July 6, 1995.

Following replacement and prior to further flight, perform an additional internal visual inspection to detect cracking of the support brackets that connect the wing skins to ribs 18, 19, 20, 21, and 22 in accordance with the EMBRAER service bulletin.

(i) If no cracking is found in the support brackets that connect the wing skins at ribs 18, 19, 20, 21, or 22: Repeat that internal visual inspection thereafter at intervals not to exceed 1,200 flight cycles until the requirements of paragraph (d) of this AD are accomplished.

(ii) If any cracking is found in the support brackets that connect the wing skins at ribs 18, 19, 20, 21, or 22: Prior to further flight, replace the cracked bracket with a new or serviceable bracket having the same part number; rib 18 may also be replaced with a ''new style'' bracket having a part number specified in paragraph 3.1. of the EMBRAER service bulletin.

(d) Within 2 years after the effective date of this AD: Replace all wing rib-to-skin support brackets of ribs 15, 16, and 18 with ''new style'' brackets having a part number specified in paragraph 3.1. of EMBRAER Service Bulletin 120–57–0031, dated July 6, 1995. Replacement procedures shall be accomplished in accordance with the Accomplishment Instructions, PART II, of that service bulletin. Prior to further flight following that replacement, perform a visual inspection to detect cracking of the wing skin support brackets of ribs 19, 20, 21, and 22. If any cracking is found, prior to further flight, replace the cracked bracket with a new or serviceable bracket having the same part number, in accordance with the EMBRAER service bulletin. Accomplishment of these actions constitutes terminating action for the requirements of this AD.

(e) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Atlanta Aircraft Certification Office (ACO), FAA, Small Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Atlanta ACO.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Atlanta ACO.

(f) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(g) The actions shall be done in accordance with EMBRAER Service Bulletin 120–57–0031, dated July 6, 1995. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Empresa Brasileira de Aeronautica, S.A. (EMBRAER), Sao Jose dos Campos—SP, Brazil. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Atlanta Aircraft Certification Office, Small Airplane Directorate, Campus Building, 1701 Columbia Avenue, Suite 2–160, College Park, Georgia; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(h) This amendment becomes effective on March 3, 1997.

Issued in Renton, Washington, on January 17, 1997.

S. R. Miller,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 97–1826 Filed 1–24–97; 8:45 am]

BILLING CODE 4910–13–U

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14 CFR Part 71

[Docket No. 96–ACE–25]

Amendment to Class E Airspace, Sioux City, IA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Direct final rule; request for comments.

SUMMARY: This action amends the Class E airspace area at Sioux Gateway Airport, Sioux City, IA. The Federal Aviation Administration has developed a Standard Instrument Approach Procedure (SIAP) based on the Non-directional Radio Beacon (NDB) which has made this change necessary. The effect of this rule is to provide additional controlled airspace for aircraft arriving and departing the Sioux Gateway Airport.

DATES: Effective date: May 22, 1997.

Comment date: Comments must be received on or before March 10, 1997.

ADDRESSES: Send comments regarding the rule in triplicate to: Manager, Operations Branch, Air Traffic Division, ACE–530, Federal Aviation Administration, Docket Number 96–ACE–25, 601 East 12th St., Kansas City, MO 64106.

The official docket may be examined in the Office of the Assistant Chief Counsel for the Central Region at the same address between 9:00 a.m. and 3:00 p.m., Monday through Friday, except federal holidays.

An informal docket may also be examined during normal business hours in the Air Traffic Division at the same address listed above.

FOR FURTHER INFORMATION CONTACT: Kathy Randolph, Air Traffic Division, Operations Branch, ACE–530C, Federal Aviation Administration, 601 East 12th Street, Kansas City, Missouri 64106: telephone: (816) 426–3408.

SUPPLEMENTARY INFORMATION: The FAA has developed Standard Instrument Approach Procedures (SIAP) utilizing the Non-directional Radio Beacon (NDB) at Sioux Gateway Airport, Sioux City, IA. The amendment to Class E airspace at Sioux City, IA, will provide additional controlled airspace to segregate aircraft operating under Visual Flight Rules (VFR) from aircraft operating under Instrument Flight Rules (IFR) procedures while arriving or departing the airport. The area will be depicted on appropriate aeronautical charts thereby enabling pilots to either circumnavigate the area, continue to operate under VFR to and from the airport, or otherwise comply with IFR procedures. Class E airspace areas extending from 700 feet or more above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9D, dated September 4, 1996, and effective September 16, 1996, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

The Direct Final Rule Procedure

The FAA anticipates that this regulation will not result in adverse or negative comment and, therefore, is issuing it as a direct final rule. Previous actions of this nature have not been controversial and have not resulted in adverse comments or objections. The amendment will enhance safety for all flight operations by designating an area where VFR pilots may anticipate the presence of IFR aircraft at lower altitudes, especially during inclement weather conditions. A greater degree of safety is achieved by depicting the area on aeronautical charts. Unless a written adverse or negative comment, or a written notice of intent to submit an adverse or negative comment is received within the comment period, the

regulation will become effective on the date specified above. After the close of the comment period, the FAA will publish a document in the Federal Register indicating that no adverse or negative comments were received and confirming the date on which the final rule will become effective. If the FAA does receive, within the comment period, an adverse or negative comment, or written notice of intent to submit such a comment, a document withdrawing the direct final rule will be published in the Federal Register, and a notice of proposed rulemaking may be published with a new comment period.

Comments Invited

Although this action is in the form of a final rule and was not preceded by a notice of proposed rulemaking, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES**. All communications received on or before the closing date for comments will be considered, and this rule may be amended or withdrawn in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of this action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments in the Rules Docket for examination by interest persons. A report that summarizes each FAA-public contact concerned with the substance of this action will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. 96–ACE–25.'' The postcard will be date stamped and returned to the commenter.

Agency Findings

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The FAA has determined that this regulation is noncontroversial and unlikely to result in adverse or negative comments. For the reason discussed in the preamble, I certify that is regulation (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under Department of Transportation (DOT) Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

Accordingly, the Federal Aviation Administration amends part 71 of the Federal Aviation Regulations (14 CFR part 71) as follows:

PART 71—AMENDED

1. Authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g); 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR 1959–1963 Comp., p. 389; 14 CFR 11.69.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9D, Airspace Designations and Reporting Points, dated September 4, 1996, and effective September 16, 1996, is amended as follows:

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth

* * * * *

ACE IA E4 Sioux City, IA [Revised]

Sioux City, Sioux Gateway Airport, IA
(Lat. 42°24′10″ N. long. 96°23′04″ W.)
Sioux City VORTAC
(Lat. 42°20′40″ N. long. 96°19′25″ W.)
Gateway NDB
(Lat. 42°24′29″N. long. 96°23′09″W.)

That airspace extending upward from the surface within 2.2 miles each side of the 140° radial of the Sioux City VOTAC extending from the 4.3-mile radius of the Sioux Gateway Airport to 5.3 miles southeast of the VORTAC and 2.5 miles each side of the 170° bearing from the Gateway NDB extending from the 4.3-mile radius of the Sioux Gateway Airport to 7 miles south of the NDB. This Class E airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

* * * * * *

ACE NE E5 Sioux City, IA. [Revised]

Sioux City, Sioux Gateway Airport, IA
(Lat. 42°24′10″ N., long. 96°23′04″ W.)
Sioux City VORTAC
(Lat. 42°20′40″ N., long. 96°19′25″ W.)
Gateway NDB
(Lat. 42°24′29″ N., long. 96°23′09″ W.)

That airspace extending upward from 700 feet above the surface within a 7-mile radius of the Sioux Gateway Airport and within 3 miles each side of the 139° radial of the Sioux City VORTAC extending from the 7-mile radius to 17.8 miles southeast of the VORTAC and within 3 miles each side of the 319° radial of the Sioux City VORTAC extending from the 6.8-mile radius to 25.3 miles northwest of the VORTAC and 2 miles each side of the 360° bearing from the Sioux Gateway Airport extending from the 7-mile radius to 9.2 mile north of the airport.

* * * * *

Issued in Kansas City, MO, on December 27, 1996.

Bryan H. Burleson,

Acting Manager, Air Traffic Division Central Region.

[FR Doc. 97–1918 Filed 1–24–97; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 71

[Airspace Docket No. 96–AGL–15]

Modification of Class E Airspace; Toledo, OH

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action modifies Class E5 airspace at Bowling Green, Wood County Airport, Toledo, OH, to accommodate diverse departure traffic from Wood County Airport. Controlled airspace extending upward from 700 to 1200 feet above ground level (AGL) is needed to contain aircraft executing the approach. The intended effect of this action is to provide segregation of aircraft using instrument approach procedures in instrument conditions from other aircraft operating in visual weather conditions.

EFFECTIVE DATE: 0901 UTC, March 27, 1997.

FOR FURTHER INFORMATION CONTACT: John A. Clayborn, Air Traffic Division, Operations Branch AGL–530, Federal Aviation Administration, 2300 East

Devon Avenue, Des Plaines, Illinois 60018, telephone (847) 294–7568.

SUPPLEMENTARY INFORMATION:

History

On Tuesday, September 17, 1996, the FAA proposed to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) to modify Class E5 airspace at Bowling Green, Wood County Airport to accommodate diverse departure traffic from Wood County Airport (61 FR 48869). The proposal was to add controlled airspace extending upward from 700 to 1200 feet AGL to contain Instrument Flight Rules (IFR) operations in controlled airspace during portions of the terminal operation and while transiting between the enroute and terminal environments.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Class E airspace designations for airspace areas extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9D dated September 4, 1996, and effective September 16, 1996, which is incorporated by reference in 14 CFR 71.1. The Class E5 airspace designation listed in this document will be published subsequently in the Order.

The Rule

This amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) modifies Class E5 airspace at Bowling Green, Wood County Airport to accommodate diverse departure traffic from Wood County Airport. Controlled airspace extending upward from 700 to 1200 feet AGL is needed to contain aircraft executing the approach. The area will be depicted on appropriate aeronautical charts thereby enabling pilots to circumnavigate the area or otherwise comply with IFR procedures.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this regulation—(1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—[AMENDED]

1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 14 CFR 11.69.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9D, Airspace Designations and Reporting Points, dated September 4, 1996, and effective September 16, 1996, is amended as follows:

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

AGL OH E5 Toledo, OH [Revised]

Bowling Green, Wood County Airport, OH (lat. 41°23′28″N., long. 83°37′49″W.)

That airspace extending upward from 700 feet or more above the surface within the area bounded by a line beginning at lat. 41°40′00″N., long. 84°20′00″W.; to lat. 41°49′00″N., long. 83°37′00″W.; to lat. 41°34′00″N., long. 89°19′00″N.; to lat. 41°15′00″N., long. 83°34′00″W.; to lat. 41°22′00″N., long. 84°05′00″W.; to the point of beginning.

* * * * *

Issued in Des Plaines, Illinois on January 9, 1997.

Maureen Woods,

Manager, Air Traffic Division.

[FR Doc. 97–1925 Filed 1–24–97; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

15 CFR Part 922

[Docket No. 970103001–7001–01]

RIN 0648–XX79

Point Reyes/Farallon Islands National Marine Sanctuary; Name Change

AGENCY: Sanctuaries and Reserves Division (SRD), Office of Ocean and Coastal Resource Management (OCRM), National Ocean Service (NOS), National Oceanic and Atmospheric Administration (NOAA), Department of Commerce (DOC).

ACTION: Final rule, technical amendment.

SUMMARY: The National Oceanic and Atmospheric Administration (NOAA) is changing the name of the Point Reyes/Farallon Islands National Marine Sanctuary to the Gulf of the Farallones National Marine Sanctuary.

EFFECTIVE DATE: January 27, 1997.

FOR FURTHER INFORMATION CONTACT:

Elizabeth Moore at (301) 713–3141.

SUPPLEMENTARY INFORMATION: The Point Reyes/Farallon Islands National Marine Sanctuary (Sanctuary) was designated in 1981. Soon after its designation the Sanctuary was commonly referred to as the Gulf of the Farallones National Marine Sanctuary. This name was used to reflect the area's bioregion and location, and because it was a more simple and familiar way for the public and NOAA to refer to the Sanctuary. In 1987, with the preparation of a management plan for the site, the name Gulf of the Farallones National Marine Sanctuary was adopted by NOAA. Consequently, the name Gulf of the Farallones has been commonly used by NOAA, State and Federal agencies and the public for nearly ten years and is the name by which the Sanctuary and area is known. By this final rule, NOAA is officially changing the name of the Sanctuary to the Gulf of the Farallones National Marine Sanctuary to reflect its commonly used name, and to remove any remaining misunderstanding which may arise because the Code of Federal Regulations refers to the Sanctuary by its original name.

Because this amendment is technical in nature, having no substantive impact, no useful purpose would be served by providing notice and opportunity for comment under the Administrative Procedure Act. Accordingly, the Acting Deputy Assistant Administrator for Ocean Services and Coastal Zone Management under 5 U.S.C. 553(b)(B) for good cause finds that providing notice and opportunity for comment is unnecessary. Nor is a 30-day delay in effective date required under 5 U.S.C. 553(d) due to the non-substantive nature of this technical amendment.

Authority: 16 U.S.C. § 1431 *et seq.*

(Federal Domestic Assistance Catalog Number 11.429 Marine Sanctuary Program)

Dated: January 17, 1997.

David L. Evans,

Acting Deputy Assistant Administrator for Ocean Services and Coastal Zone Management.

Accordingly, for the reasons set forth above, 15 CFR Part 922 is amended as follows:

PART 922—[AMENDED]

1. The authority citation for part 922 continues to read as follows:

Authority: 16 U.S.C. 1431 *et seq.*

2. Part 922 is amended by deleting ''Point Reyes/Farallon Islands National Marine Sanctuary'' wherever it appears and replacing it with ''Gulf of the Farallones National Marine Sanctuary.''

[FR Doc. 97–1872 Filed 1–24–97; 8:45 am]

BILLING CODE 3510–08–M

RAILROAD RETIREMENT BOARD

20 CFR Part 211

RIN 3220–AB10

Finality of Records of Compensation

AGENCY: Railroad Retirement Board.

ACTION: Final rule.

SUMMARY: The Railroad Retirement Board (Board) hereby adopts regulations pertaining to the finality of reports of compensation. The regulations relate to corrections to records of compensation more than four years after the date on which the compensation was required to be reported to the Board.

EFFECTIVE DATE: January 27, 1997.

ADDRESSES: Secretary to the Board, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois 60611.

FOR FURTHER INFORMATION CONTACT: Thomas W. Sadler, Senior Attorney, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois 60611, telephone (312) 751–4513, TTD (312) 751–4701.

SUPPLEMENTARY INFORMATION: This rule amends part 211 of the Board's regulations (Creditable Railroad Compensation) by adding a new § 211.16 to that part. Under section 9 of the Railroad Retirement Act, the Board will not change an employee's record of reported compensation if the change is requested more than four years after the report of compensation is required to be filed under § 209.6 of the Board's regulations. Section 211.16 explains when the Board will change a record of compensation beyond the four year period; for example, where the record is incorrect because of clerical error or fraud, where the compensation was posted to the wrong period or person, or where the compensation was originally reported to the Social Security Administration but the Board or a court has determined that it should have been reported to the Board.

On December 26, 1995, the Board published this rule as a proposed rule (60 FR 66770). The Labor Member of the Board dissented from publication of the proposed rule. His reasons for doing so were set forth in the Supplementary Information section of the proposed rule (60 FR 66770). Comments on the proposed rule were invited on or before February 26, 1996. Three comments were received with respect to the proposed rule. Two commentors indicated agreement with the views of the Labor Member and urged the Board to adopt those views. One of these commentors also suggested that it is inequitable to put on the employee the burden of the consequences of erroneous reporting by employers or erroneous action by a Government agency. A third commentor (the joint comments of the Association of American Railroads and representatives of rail labor) submitted comments and suggested certain changes to the proposed rule. The Board has considered these comments and has made changes as explained below.

The rule, which is now being adopted as a final rule, protects the interests of employees, but also protects the integrity of the trust funds which fund the benefits paid by the agency. Employees have the right to request the Board to credit service and compensation under the Railroad Retirement Act. Accordingly, an employee who believes that he should receive credit, either because he believes that he has been misclassified as an independent contractor or because he believes that his employer should be a covered employer under the Railroad Retirement Act, can notify the Board so the Board can investigate the situation. The final regulation gives recognition to this right but protects the integrity of the trust funds by requiring employees to come forward in a timely manner to contest the correctness of their service and compensation records. By requiring timely protests the regulation puts the Government in a better position to collect any employment taxes associated with the service and compensation correction. It should also be noted that an employee who does not receive full retroactive service credit because he did not timely protest his employment record would still receive social security credit for the service in question, which social security covered credit would be used in computing any tier I benefit under the Railroad Retirement Act.

As noted above, the Board has revised the proposed rule in accordance with comments received. In response to a concern of the Labor Member, which was repeated by the commentors, to the effect that an employee may not receive credit in certain circumstances under either the Railroad Retirement Act or the Social Security Act, the Board has added language to § 211.16(c) to clarify that this will not happen. The comment concerned a situation where a company has been ruled an employer but taxes have not been paid for service more than 4 years in the past. Under the final rule service more than four years in the past would not be creditable under the RRA. There was concern that in this situation the service might not be creditable under the SSA. First of all, the Board does not believe that the service would be removed under the Social Security Act; however, if this were to occur, the Railroad Retirement Board would use this service and wages in computing the tier I component of the employee's railroad retirement annuity pursuant to section 1(h)(8) of the Railroad Retirement Act (45 U.S.C. 231(h)(8)). Under section 1(h)(8) of the Railroad Retirement Act remuneration that has been subject to tier I railroad retirement taxes, which is how the Board would view wage credits removed under the Social Security Act, is considered to be creditable compensation for the computation of railroad retirement tier I benefits. As noted above, language has been added to section 211.16(c) to clarify this result. If the employee does not accrue the minimum 120 months of railroad retirement service prior to retirement or death so as to be qualified for benefits under the Railroad Retirement Act, his railroad service and compensation will be transferred to the Social Security Administration and used in computing any benefits payable under the Social Security Act.

The other change that has been made in the final rule is the addition of an exception to the general bar against crediting compensation retroactive more than four years without the payment of taxes. The exception would apply in the case of an employee's record that is erroneous as a result of fraudulent reporting by the employee's employer.

The Office of Management and Budget determined that this is a significant regulatory action under Executive Order 12866 and has approved its publication as a final rule. There are no information collections associated with this rule.

List of Subjects in 20 CFR Part 211

Pensions, Railroad employees, Railroad retirement.

For the reasons set out in the preamble, chapter II of title 20 of the Code of Federal Regulations is amended as follows:

PART 211—[AMENDED]

1. The authority citation for part 211 continues to read as follows:

Authority: 45 U.S.C. 231(f).

2. Part 211 is amended by adding a new § 211.16 to read as follows:

§ 211.16 Finality of records of compensation.

(a) *Time limit for corrections to records of compensation.* The Board's record of the compensation reported as paid to an employee for a given period shall be conclusive as to amount, or if no compensation was reported for such period, then as to the employee's having received no compensation for such period, unless the error in the amount of compensation or the failure to make return of the compensation is called to the attention of the Board within four years after the date on which the compensation was required to be reported to the Board as provided for in § 209.6 of this chapter.

(b) *Correction after 4 years.* (1) The Board may correct a report of compensation after the time limit set forth in paragraph (a) of this section where the compensation was posted or not posted as the result of fraud on the part of the employer.

(2) Subject to paragraph (c) of this section, the Board may correct a report of compensation after the time limit set forth in paragraph (a) of this section for one of the following reasons:

(i) Where the compensation was posted for the wrong person or the wrong period;

(ii) Where the earnings were erroneously reported to the Social Security Administration in the good faith belief by the employer or employee that such earnings were not covered under the Railroad Retirement Act and there is a final decision of the Board under part 259 of this chapter that such employer or employee was covered under the Railroad Retirement Act during the period in which the earnings were paid;

(iii) Where a determination pertaining to the coverage under the Railroad Retirement Act of an individual, partnership, or company as an employer, is retroactive; or

(iv) Where a record of compensation could not otherwise be corrected under this part and where in the judgment of the three-member Board that heads the Railroad Retirement Board failure to make a correction would be inequitable.

(c) *Limitation on Crediting Service.* (1) Except as provided in paragraph (b)(1) of this section, no employee may be credited with service months or tier II compensation beyond the four year period referred to in paragraph (a) of this section unless the employee establishes to the satisfaction of the Board that all employment taxes imposed by sections 3201, 3211, and 3221 of title 26 of the Internal Revenue Code have been paid with respect to the compensation and service.

(2) The limitation on the creditability of service months and tier II compensation in paragraph (c)(1) of this section shall not affect the creditability, for purposes of computing the tier I component of a railroad retirement annuity, of compensation payments with respect to which taxes have been paid under either the Railroad Retirement Tax Act or the Federal Insurance Contributions Act.

Dated: January 15, 1997.

By Authority of the Board.

Beatrice Ezerski,

Secretary to the Board.

[FR Doc. 97–1906 Filed 1–24–97; 8:45 am]

BILLING CODE 7905–01–P

20 CFR Parts 355, 356

RIN 3220–AB24

Adjustment of Civil Monetary Penalties

AGENCY: Railroad Retirement Board.

ACTION: Final rule.

SUMMARY: As required by subsection (s) of the Debt Collection Improvement Act of 1996, the Railroad Retirement Board (Board) hereby amends its regulations to provide for adjustments in the amount of civil monetary penalties. The amendment will increase the amount of penalties under the jurisdiction of the Board to keep pace with inflation.

EFFECTIVE DATE: January 27, 1997.

ADDRESSES: Secretary to the Board, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois 60611.

FOR FURTHER INFORMATION CONTACT: Michael C. Litt, General Attorney, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois 60611, (312) 751–4929, TDD (312) 751–4701.

SUPPLEMENTARY INFORMATION: Subsection (s) of the Debt Collection Improvement Act of 1996, Public Law 104–134, amended the Federal Civil Penalties Inflation Adjustment Act of 1990 to require agencies to publish regulations within 180 days of enactment of the amendment, April 26, 1996, providing for the adjustment of civil monetary penalties provided by law within the jurisdiction of the agency.

The penalties authorized in the Program Fraud Civil Remedies Act and under the false claims provisions at 31 U.S.C. 3729(a) are within the jurisdiction of the Railroad Retirement Board and, therefore, the Board is required to publish regulations providing for the adjustment of the monetary penalties.

The Federal Civil Penalties Inflation Adjustment Act requires that civil monetary penalties be adjusted by the percentage by which the Consumer Price Index for the month of June of the calendar year preceding the adjustment exceeds the Consumer Price Index for the month of June of the calendar year in which the amount of such civil monetary penalty was last set or adjusted. That Act also mandates rounding of the adjustment, depending on the amount of the maximum penalty: Any adjustment must be rounded to the nearest $1,000 for maximum penalties greater than $1,000 and less than or equal to $10,000. However, the amendment limits the initial increase to ten percent of the amount of the maximum penalty.

In both instances the ratio of the Consumer Price Index for the month of June of the calendar year preceding the adjustment to the Consumer Price Index for the month of June of the calendar year in which the amount of such civil monetary penalty was last set or adjusted is 456.7/327.9, which would produce an increase considerably in excess of ten percent of the penalties. Under the Program Fraud Civil Remedies Act the maximum penalty is $5,000 (there is no minimum penalty); accordingly, this action will increase the maximum penalty by $500. The minimum and maximum penalties under 31 U.S.C. 3729(a) are $5,000 and $10,000 respectively; accordingly, this action will increase the minimum penalty by $500 and the maximum penalty by $1,000.

The amendment also restricts application of the adjustments to violations which occur after the date the increase takes effect. Therefore, the increases would not apply in the case of any violation occurring before the effective date of these regulations.

On October 22, 1996, the Board published this rule as a proposed rule (61 FR 54745), inviting comments on or before November 21, 1996. No comments were received.

The Board, with the concurrence of the Office of Management and Budget, has determined that this is not a significant regulatory action for purposes of Executive Order 12866. Therefore, no regulatory impact analysis is required. There are no information collections associated with this rule.

List of Subjects in 20 CFR Parts 355 and 356

Railroad employees, Railroad retirement.

For the reasons set forth in the preamble, title 20, chapter II, subchapter E, is amended as follows:

PART 355—REGULATIONS UNDER THE PROGRAM FRAUD CIVIL REMEDIES ACT OF 1986

1. The authority citation for part 355 continues to read as follows:

Authority: 31 U.S.C. 3809.

§ 355.3 [Amended]

2. Section 355.3(a)(1)(iv) is amended by adding at the end thereof a new sentence to read ''This penalty is subject to adjustment in accord with part 356 of this chapter.''

3. Section 355.3(b)(1)(ii) is amended by adding at the end thereof a new sentence to read ''This penalty is subject to adjustment in accord with part 356 of this chapter.''

4. A new part 356 is added to subchapter E to read as follows:

PART 356—CIVIL MONETARY PENALTY INFLATION ADJUSTMENT

Sec.

Authority: 28 U.S.C. 2461; 31 U.S.C. 3729, 3809.

§ 356.1 Introduction.

(a) The Federal Civil Penalties Inflation Adjustment Act requires that civil monetary penalties be adjusted by the percentage by which the Consumer Price Index for the month of June of the calendar year preceding the adjustment exceeds the Consumer Price Index for the month of June of the calendar year in which the amount of such civil monetary penalty was last set or adjusted. That Act also mandates rounding of the adjustment, depending on the amount of the maximum penalty.

(b) The ratio of the Consumer Price Index for the month of June of the calendar year preceding this adjustment to the Consumer Price Index for the month of June of the calendar year in which the amount of civil monetary penalties provided for under the Program Fraud Civil Remedies Act (31 U.S.C. 3801–3812) and the false claims provisions at 31 U.S.C. 3729(a) was last set or adjusted, 1986, is 456.7/327.9, which produces the following increases in the penalties after applicable rounding:

(1) The maximum penalty under the Program Fraud Civil Remedies Act for a false claim or statement would be increased from $5,000 to $7,000.

(2) The maximum and minimum penalties under the false claims provisions at 31 U.S.C. 3729(a) would be increased from $10,000 to $14,000 and $5,000 to $7,000, respectively.

(c) Imposition of the increases are limited to actions occurring after the effective date of the increases.

(d) No increase may exceed ten percent of the penalty or range of penalties, as applicable.

§ 356.2 Program Fraud Civil Remedies Act of 1986.

In the case of penalties assessed under part 355 of this chapter, an additional penalty of $500 may be assessed for claims or statements made after October 23, 1996.

§ 356.3 False claims.

In the case of penalties assessed under 31 U.S.C. 3729 based on actions occurring after October 23, 1996, the minimum penalty is $5,500 and the maximum penalty is $11,000.

Dated: January 15, 1997.

By Authority of the Board.

Beatrice Ezerski,

Secretary to the Board.

[FR Doc. 97–1916 Filed 1–24–97; 8:45 am]

BILLING CODE 7905–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 101

[Docket No. 95P–0337]

Food Labeling: Saccharin and Its Salts; Retail Establishment Notice

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is revoking the food labeling regulation that prescribes conditions for the display by a retail establishment of a notice concerning the sale of products containing saccharin and its salts. This action is being taken in response to an act to repeal the saccharin notice requirement and a citizen petition submitted by the Calorie Control Council. This action is intended to reduce the burden on small businesses.

EFFECTIVE DATE: January 27, 1997.

FOR FURTHER INFORMATION CONTACT: Gerad L. McCowin, Center for Food Safety and Applied Nutrition (HFS–151), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–205–4561.

SUPPLEMENTARY INFORMATION: In the Federal Register of September 27, 1996 (61 FR 50770), FDA published a proposal to amend its food labeling regulations by revoking § 101.11 *Saccharin and its salts; retail establishment notice* (21 CFR 101.11). The agency had issued this proposal partly in response to enactment on April 1, 1996, of Pub. L. 104–124, which amended the Federal Food, Drug, and Cosmetic Act (the act) by repealing section 403(p) (21 U.S.C. 343(p)), and partly in response to a citizen petition that it received on October 11, 1995, from the Calorie Control Council requesting that the agency revoke this provision. No comments were received in response to the proposal.

Having received no comments, FDA concludes that, for the reasons set forth in the proposal, it is appropriate to amend its food labeling regulations by revoking § 101.11. In view of the revocation of section 403(p) of the act by Pub. L. 104–124 and the fact that section 403(o) of the act requires that all food products containing saccharin include on their labeling a warning statement (see Statement of final guidelines for labeling of food products containing saccharin (42 FR 62209, December 9, 1977)), the agency finds that § 101.11 is no longer necessary. This action is also consistent with the Administration's ''Reinventing Government'' initiative which seeks to ease burdens on regulated industry and consumers.

FDA has determined that this final rule is not a significant regulatory action for the purposes of Executive Order 12866. This final rule is expected to reduce the burden on small businesses. Therefore, the agency certifies that this final rule will not have a significant adverse impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act (5 U.S.C. 601–612).

The agency has determined under 21 CFR 25.24(a)(11) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment

nor an environmental impact statement is required.

This final rule contains no information collection requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501, *et seq.*).

List of Subjects in 21 CFR Part 101

Food labeling, Nutrition, Reporting and recordkeeping requirements.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 101 is amended as follows:

PART 101—FOOD LABELING

1. The authority citation for 21 CFR part 101 continues to read as follows:

Authority: Secs. 4, 5, 6 of the Fair Packaging and Labeling Act (15 U.S.C. 1453, 1454, 1455); secs. 201, 301, 402, 403, 409, 701 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 331, 342, 343, 348, 371).

§ 101.11 [Removed]

2. Section 101.11 *Saccharin and its salts; retail establishment notice* is removed from subpart A.

Dated: January 17, 1997.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 97–1853 Filed 1–24–97; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 8713]

RIN 1545–AU93

Section 42(d)(5) Federal Grants

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Temporary regulations.

SUMMARY: This document contains temporary regulations with respect to the low-income housing tax credit relating to the application of section 42(d)(5) to certain rental assistance programs under section 42(g)(2)(B)(i). The regulations clarify that certain types of federal rental assistance payments do not result in a reduction in the eligible basis of a low-income housing building. The text of these regulations also serves as the text of the proposed regulations set forth in the notice of proposed rulemaking on this subject in the Proposed Rules section of this issue of the Federal Register.

EFFECTIVE DATE: These regulations are effective January 27, 1997.

FOR FURTHER INFORMATION CONTACT: Christopher J. Wilson (202) 622–3040 (not a toll-free call).

SUPPLEMENTARY INFORMATION:

Background

Under section 42(d)(1), the eligible basis used to compute the low-income housing tax credit of a new low-income building is the adjusted basis of the building as of the close of the first taxable year of the credit period. Section 42(d)(5) provides that if, during a taxable year in the compliance period (as defined in section 42(i)(1)), a federal grant is made with respect to a low-income building or the operation thereof, the eligible basis of the building for the taxable year and all succeeding taxable years is reduced to the extent of the federal grant. Questions have arisen whether rental assistance payments under section 8 of the United States Housing Act of 1937 (Act) (42 U.S.C. § 1437f) and certain rental assistance payments under section 9 of the Act (42 U.S.C. 1437g) are federal grants requiring a reduction in eligible basis.

The legislative history of section 42 indicates that section 42(d)(5) was enacted to prevent a taxpayer from ''double-dipping'' in federal benefits. S. Rep. No. 313, 99th Cong., 2d Sess. II–767 (1986), 1986–3 (Vol 3) C.B. 767. This would occur, for example, if the owner of a building received both the low-income housing credit and a federal-interest subsidy or federal grant with respect to the building. The legislative history further indicates, however, that Congress did not intend to treat federal rental assistance payments as grants for this purpose. Thus, the legislative history indicates that no basis reduction is required for rental assistance payments provided by the Department of Housing and Urban Development (HUD) under section 8 of the Act. (In contrast to this treatment of section 8 rental assistance payments, section 42(c)(2) generally denies the low-income housing tax credit to buildings that receive ''moderate rehabilitation assistance'' under section 8(e)(2) of the Act).

HUD recently was granted the authority to assist mixed-finance projects under section 9 of the Act. Under this new initiative, public housing authorities receiving HUD assistance are permitted to disburse that assistance to private owners as reimbursement for the operating expenses of units the owner has agreed to maintain for public-housing tenants. This section 9 assistance for operating expenses functions in a manner similar to rental assistance payments under section 8 of the Act. The section 8 rental assistance payments are designed to compensate the unit owner for all or part of the difference between the rent a low-income tenant is able to pay and a fair market rent standard as set by HUD. Similarly, the section 9 payments are designed to cover an allocable share of operating costs of the units rented to low-income tenants, thus, in effect, supplementing the rents that these tenants are required to pay.

Explanation of Provisions

These temporary regulations provide that certain federal rental assistance payments made to the owner of a building on behalf of low-income tenants are not federal grants with respect to a building or its operation that require a reduction in the building's eligible basis under section 42(d)(5). These payments include rental assistance payments made under section 8 of the Act, certain payments made under section 9 of the Act, and payments made under such other programs or methods of rental assistance as may be designated in the Federal Register or the Internal Revenue Bulletin.

Special Analyses

It has been determined that this Treasury decision is not a significant regulatory action as defined in EO 12866. Therefore, a regulatory assessment is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations and, because these regulations do not impose on small entities a collection of information requirement, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Therefore, a Regulatory Flexibility Analysis is not required. Pursuant to section 7805(f) of the Internal Revenue Code, this temporary regulation will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Drafting Information

The principal author of these regulations is Christopher J. Wilson, Office of Assistant Chief Counsel (Passthroughs and Special Industries). However, other personnel from the IRS and Treasury Department participated in their development.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR part 1 is amended as follows:

PART 1—INCOME TAXES

Paragraph 1. The authority citation for part 1 is amended by adding an entry in numerical order to read in part as follows:

Authority: 26 U.S.C. 7805 * * *
Section 1.42–16T also issued under 26 U.S.C. 42(n); * * *

Par. 2. Section 1.42–16T is added to read as follows:

§ 1.42–16T Eligible basis reduced by federal grants (temporary).

(a) *In general.* If, during any taxable year of the compliance period (described in section 42(i)(1)), a grant is made with respect to any building or the operation thereof and any portion of the grant is funded with federal funds (whether or not includible in gross income), the eligible basis of the building for the taxable year and all succeeding taxable years is reduced by the portion of the grant that is so funded.

(b) *Grants do not include certain rental assistance payments.* A federal rental assistance payment made to a building owner on behalf or in respect of a tenant is not a grant made with respect to a building or its operation if the payment is made pursuant to—

(1) Section 8 of the United States Housing Act of 1937;

(2) A qualifying program of rental assistance administered under section 9 of the United States Housing Act of 1937; or

(3) A program or method of rental assistance as the Secretary may designate through the Federal Register or in the Internal Revenue Bulletin (see § 601.601(d)(2) of this chapter).

(c) *Qualifying rental assistance program.* For purposes of paragraph (b)(2) of this section, payments are made pursuant to a qualifying rental assistance program administered under section 9 of the United State Housing Act of 1937 to the extent that the payments—

(1) Are made to a building owner pursuant to a contract with a public housing authority with respect to units the owner has agreed to maintain as public housing units (PH-units) in the building;

(2) Are made with respect to units occupied by public housing tenants, provided that, for this purpose, units may be considered occupied during periods of short term vacancy (not to exceed 60 days); and

(3) Do not exceed the difference between the rents received from a building's PH-unit tenants and a pro rata portion of the building's actual operating costs that are reasonably allocable to the PH-units (based on square footage, number of bedrooms, or similar objective criteria), and provided that, for this purpose, operating costs do not include any development costs of a building (including developer's fees) or the principal or interest of any debt incurred with respect to any part of the building.

(d) *Effective date.* This section is effective January 27, 1997.

Margaret Milner Richardson,
Commissioner of Internal Revenue.

Approved: January 8, 1997.

Donald C. Lubick,
Acting Assistant Secretary of the Treasury.

[FR Doc. 97–1790 Filed 1–24–97; 8:45 am]
BILLING CODE 4830–01–U

DEPARTMENT OF THE INTERIOR

Minerals Management Service

30 CFR Part 250

RIN 1010–AB50

Hydrogen Sulfide Requirements for Operations in the Outer Continental Shelf

AGENCY: Minerals Management Service (MMS), Interior.

ACTION: Final rule.

SUMMARY: This rule revises requirements for preventing hydrogen sulfide (H_2S) releases, detecting and monitoring H_2S and sulphur dioxide (SO_2), protecting personnel, providing visual and audible warnings, and training personnel. The rule also establishes requirements for H_2S flaring. The revisions are necessary to keep up with current practices and technologies, and to enhance personnel safety and environmental protection.

EFFECTIVE DATE: March 28, 1997.

FOR FURTHER INFORMATION CONTACT: E.P. Danenberger at (703) 787–1598 or John Mirabella at (703) 787–1600.

SUPPLEMENTARY INFORMATION: On May 11, 1995, we published in the Federal Register (60 FR 25178) a reproposed rule, which incorporated comments to a previous proposed rule which we published on August 15, 1990 (55 FR 33326). The reproposed rule incorporated the latest editions of two documents:

- American National Standard Institute (ANSI), American National Standard for Respiratory Protection (ANSI Z88.2–1992), and
- The National Association of Corrosion Engineers' (NACE) Standard (MR–01–92), Recommended Practice (RP), Sulfide Stress Cracking Resistant Metallic Materials for Oil Field Equipment.

We received a total of three responses: one from the National Institute of Safety and Health (NIOSH) and two from industry. We have addressed their comments below and have rewritten the rule in a clearer and more user-oriented style. We have subdivided some sections. As a result, some sections have been renumbered.

Discussion of Comments

Comment: NIOSH referred to recommendations it had given to the Occupational Safety and Health Administration with respect to ''bearded workers'' and ''wearing contact lenses,'' and recommended that the pressure-demand-type respirator required should be certified by NIOSH.

Response: We have incorporated by reference the ANSI Z88.2 standard that addresses the topics of ''bearded workers'' and ''wearing of contact lenses.'' We believe our rule is consistent with regulations promulgated by other Federal agencies but do not agree that certification by other agencies is needed.

Comment: There is a critical need for a system that would continuously monitor and detect any emissions the instant they occur at wellheads and manifolds.

Response: We consider the sensors that detect the presence of H_2S in air to be part of a continuous monitoring system. Sensor locations take into consideration design factors such as type of decking, location of fire walls, ventilation, or area confinement. Alternative monitoring systems may be desirable for production systems that have components which are prone to erosion and leaks. MMS encourages lessees to use new or alternative monitoring systems that enhance leak detection capabilities.

Comment: Delete the requirements concerning SO_2-detection and monitoring equipment. The commenter stated that a properly designed flare system, coupled with general requirements allowing operators to establish personnel exposure limits, should be adequate for personnel protection on a facility.

Response: We agree that operators should be permitted to propose alternatives to the use of portable of fixed SO_2 monitors to monitor air quality while burning gas containing H_2S. We added a provision to allow the District Supervisor to consider and

approve alternative engineering controls.

Comment: The requirement concerning training for visitors who stay *overnight* on a facility should be given to visitors who remain *2 consecutive* nights. The suggested wording would eliminate unnecessary detailed training for office associates and other visitors who infrequently visit the facility. The commenter also recommended the substitution of the phrase ''abbreviated training program'' with the word ''briefing.''

Response: We agree with the commenter that ''overnight'' is not an appropriate criteria. We have modified the requirement to provide more flexibility by allowing stays of up to 24 hours.

Comment: Expand the requirement concerning resuscitators by adding the words: ''on manned facilities and a number equal to the personnel on board, not to exceed three, on unmanned facilities.'' The suggested words would indicate that it is not necessary to maintain or provide three resuscitators in facilities where there are less than three persons.

Response: We agree and used the suggested words, with modifications.

Comment: Change the requirement of drills for each person within 24 hours after duty begins and at least once during every subsequent 7-day period be changed to say: ''A drill will be conducted for each person at the facility during his or her normal duty.'' The commenter felt that drills for each person within 24 hours after duty begins is an unnecessary administrative burden due to varied work rotations. Also, in order to indicate that H_2S drills and training can be conducted as part of other drills, the following words be inserted: ''H_2S drills and training may be conducted in conjunction with other safety meetings or with rig/facility abandonment drills.''

Response: We agree with the suggestion concerning drill frequency and used the suggested words, with modifications. Lessees may combine H_2S drills with other training or drills if scenarios are realistic and the drill procedures effectively prepare personnel for an H_2S emergency.

Comment: Expand the operational danger signs requirement by adding the words: ''and/or red flashing lights be illuminated.'' The commenter observed that the proposed rule permits use of electronic systems. However, the actual language of the proposed rule did not include such provisions. The use of flashing lights may be more effective than flags.

Response: We agree. The suggested words, modified to say, ''and/or activate flashing red lights,'' will be inserted in the requirement.

Comment: Clarify sensor locations in enclosed areas in order to avoid contradictory interpretations.

Response: We agree. We have modified that requirement.

Comment: Expand the requirement concerning the use of detectors in nearby facilities by adding the words: ''To invoke this requirement the District Supervisor will consider dispersion modeling results from a possible release to determine if 20 parts per million (ppm) H_2S concentration levels could be exceeded at nearby facilities.'' The added language would explain the decision process used to invoke the requirement of having monitoring equipment at third party sites.

Response: We agree and used the suggested words with modifications.

Comment: Reduce the nominal breathing time of ''at least 15 minutes'' for respirators to ''at least 5 minutes.'' The commenter states that experience from drills indicate that a 5 minute nominal breathing time is adequate for a trained user to reach a safe briefing area, and that the cited ANSI document does not specify a 15 minute normal breathing time for this application.

Response: We do not agree with the commenter. We feel that the risk of entering or exiting an H_2S atmosphere that is immediately dangerous to life or health warrants the use of a self-contained air supply as recommended in Section A.9.1.3 of ANSI Z88.2–1992, i.e., a supply of 15 minutes or more. Commenters responding to our previously proposed rule published in the Federal Register on August 15, 1990, requested that we specify a self-contained breathing time. We decided to specify a nominal breathing time of at least 15 minutes because 5 minutes might now allow personnel enough time to escape from an emergency.

Comment: Insert the words ''upon request of the Regional Supervisor'' in the recordkeeping requirements concerning monthly reports of flared and vented gas containing H_2S as required in § 250.175(d)(3). Some regions are under control of local authorities concerning air pollution and require submission of such reports, making the report to MMS optional. The suggested changes would provide local MMS offices with the authority to require this report only as needed and avoids duplication.

Response: The suggested words will be inserted in the section. On May 20, 1996, a final rule modified § 250.175. In consequence, the paragraphs contained in that section were renumbered. Thus, § 250.175(d)(3) became § 250.175(f)(3).

Author: Mario Rivero, Information and Training Branch, prepared this document.

Executive Order (E.O.) 12866

This final rule does not meet the criteria for a significant rule requiring review by the Office of Management and Budget (OMB) under E.O. 12866.

Regulatory Flexibility Act

This proposed amendment to the rule will not have any significant effects on a substantial number of small entities. In general, the entities that engage in offshore activities are not small due to the technical and financial resources and experience needed to safely conduct such activities. Small entities are more likely to operate onshore or in State waters—areas not covered by the proposed rule. When small entities do work in the OCS, they are likely to be contractors. Working in an H_2S environment can be dangerous, and it is important that all operators and contractors follow the rules. Small entities that work on the OCS have been able to comply with existing rules and will be able to comply with the new rules. These changes to the rules will not affect their ability to compete.

Paperwork Reduction Act

MMS has submitted to OMB for approval the information collection requirements in this final rule which revises § 250.67 (OMB Control Number 1010–0053) and adds § 250.175(f) (OMB Control Number 1010–0041). On February 6, 1996, we provided a 60-day review and comment process through a notice in the Federal Register (61 FR 4480). The Paperwork Reduction Act of 1995 provides that an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

The titles of the collections of information are ''30 CFR Part 250, Subpart D, Oil and Gas Drilling Operations'' (1010–0053) and ''30 CFR Part 250, Subpart K, Oil and Gas Production Rates'' (1010–0041).

The collections of information in this final rule consist of the reporting and recordkeeping necessary to prevent H_2S releases, protect human safety, and detect and monitor SO_2. They include critical contingency plan requirements; recordkeeping on training, drilling, and equipment monitoring activities; posting of safety, emergency and warning procedures; and MMS reporting requirements. Responses are mandatory.

MMS needs the information to ascertain the condition of a drilling site and to determine if lessees are properly providing for the safety of operations and protection of human life or health and the environment. We use the information to avoid and eliminate hazards inherent in drilling operations.

The respondents are approximately 26 Federal oil and gas lessees. The frequency of response is ''on occasion.''

In § 250.67, we estimate an annual reporting burden of 849 hours and an annual recordkeeping burden of 16,189 hours. In § 250.175(f), we estimate an annual reporting burden of 432 hours. The burden estimates include the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Send comments regarding the burden or any other aspect of the collections of information contained in § 250.67 and § 250.175(f), including suggestions for reducing the burdens, to the Office of Information and Regulatory Affairs, Office of Management and Budget, Attn: Desk Officer for the Department of the Interior, Room 10102, 725 17th Street, NW., Washington, DC 20503 (OMB control number 1010–0053 or 1010–0041). Send a copy of your comments to the Information Collection Clearance Officer, Minerals Management Service, Mail Stop 2053, 381 Elden Street, Herndon, Virginia 20170–4817.

Takings Implication Assessment

The DOI determined that this final rule does not represent a governmental action capable of interference with constitutionally protected rights. Thus, DOI does not need to prepare a Takings Implication Assessment pursuant to E.O. 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

E.O. 12988

The DOI certified to OMB that the rule meets the applicable reform standards provided in Sections 3(a) and 3(b)(2) of E.O. 12988.

Unfunded Mandates Reform Act of 1995

The DOI has determined and certifies according to the Unfunded Mandates Reform Act, 2 U.S.C. 1502 *et seq.*, that this rule will not impose a cost of $100 million or more in any given year on State, local, and tribal governments, or the private sector.

National Environmental Policy Act

The DOI determined that this action does not constitute a major Federal action significantly affecting the quality of the human environment; therefore, an Environmental Impact Statement is not required.

List of Subjects in 30 CFR Part 250

Continental shelf, Environmental impact statements, Environmental protection, Government contracts, Incorporation by reference, Investigations, Mineral royalties, Oil and gas development and production, Oil and gas exploration, Oil and gas reserves, Penalties, Pipelines, Public lands—minerals resources, Public lands—rights-of-way, Reporting and recordkeeping requirements, Sulphur development and production, Sulphur exploration, Surety bonds.

Dated: January 9, 1997.

Sylvia V. Baca,

Deputy Assistant Secretary, Land and Minerals Management.

For the reasons stated in the preamble, Minerals Management Service (MMS) amends 30 CFR part 250 as follows:

PART 250—OIL AND GAS AND SULPHUR OPERATIONS IN THE OUTER CONTINENTAL SHELF

1. The authority citation for part 250 continues to read as follows:

Authority: 43 U.S.C. 1334.

2. In § 250.1, paragraphs (c)(7) and (g)(1) are revised to read as follows:

§ 250.1 Documents incorporated by reference.

* * * * *

(c) * * *

(7) ANSI Z88.2–1992, American National Standard for Respiratory Protection, Incorporated by Reference at: §§ 250.67(g)(4)(iv) and (j)(13)(ii).

* * * * *

(g) * * *

(1) NACE Standard MR.01–75–96, Sulfide Stress Cracking Resistant Metallic Materials for Oil Field Equipment, January 1996, Incorporated by Reference at: § 250.67(p)(2).

* * * * *

3. In § 250.2, the definitions for *Zones known to contain H_2S, Zones where the absence of H_2S* has been confirmed, and *Zones where the presence of H_2S* is unknown are removed.

4. Section 250.67 is revised to read as follows:

§ 250.67 Hydrogen sulfide

(a) *What precautions must I take when operating in an H_2S area?* You must:

(1) Take all necessary and feasible precautions and measures to protect personnel from the toxic effects of H_2S and to mitigate damage to property and the environment caused by H_2S. You must follow the requirements of this section when conducting drilling, well-completion/well-workover, and production operations in zones with H_2S present and when conducting operations in zones where the presence of H_2S is unknown. You do not need to follow these requirements when operating in zones where the absence of H_2S has been confirmed; and

(2) Follow your approved contingency plan.

(b) *Definitions.* Terms used in this section have the following meanings:

Facility means a vessel, a structure, or an artificial island used for drilling, well-completion, well-workover, and/or production operations.

H_2S absent means:

(1) Drilling, logging, coring, testing, or producing operations have confirmed the absence of H_2S in concentrations that could potentially result in atmospheric concentrations of 20 ppm or more of H_2S; or

(2) Drilling in the surrounding areas and correlation of geological and seismic data with equivalent stratigraphic units have confirmed an absence of H_2S throughout the area to be drilled.

H_2S present means that drilling, logging, coring, testing, or producing operations have confirmed the presence of H_2S in concentrations and volumes that could potentially result in atmospheric concentrations of 20 ppm or more of H_2S.

H_2S unknown means the designation of a zone or geologic formation where neither the presence nor absence of H_2S has been confirmed.

Well-control fluid means drilling mud and completion or workover fluid as appropriate to the particular operation being conducted.

(c) *Classifying an area for the presence of H_2S.* You must:

(1) Request and obtain an approved classification for the area from the Regional Supervisor before you begin operations. Classifications are ''H_2S absent,'' H_2S present,'' or ''H_2S unknown'';

(2) Submit your request with your application for permit to drill;

(3) Support your request with available information such as geologic and geophysical data and correlations, well logs, formation tests, cores and analysis of formation fluids; and

(4) Submit a request for reclassification of a zone when additional data indicate a different classification is needed.

(d) *What do I do if conditions change?* If you encounter H_2S that could

potentially result in atmospheric concentrations of 20 ppm or more in areas not previously classified as having H_2S present, you must immediately notify MMS and begin to follow requirements for areas with H_2S present.

(e) *What are the requirements for conducting simultaneous operations?* When conducting any combination of drilling, well-completion, well-workover, and production operations simultaneously, you must follow the requirements in the section applicable to each individual operation.

(f) *Requirements for submitting an H_2S Contingency Plan.* Before you begin operations, you must submit an H_2S Contingency Plan to the District Supervisor for approval. Do not begin operations before the District Supervisor approves your plan. You must keep a copy of the approved plan in the field, and you must follow the plan at all times. Your plan must include:

(1) Safety procedures and rules that you will follow concerning equipment, drills, and smoking;

(2) Training you provide for employees, contractors, and visitors;

(3) Job position and title of the person responsible for the overall safety of personnel;

(4) Other key positions, how these positions fit into your organization, and what the functions, duties, and responsibilities of those job positions are;

(5) Actions that you will take when the concentration of H_2S in the atmosphere reaches 20 ppm, who will be responsible for those actions, and a description of the audible and visual alarms to be activated;

(6) Briefing areas where personnel will assemble during an H_2S alert. You must have at least two briefing areas on each facility and use the briefing area that is upwind of the H_2S source at any given time;

(7) Criteria you will use to decide when to evacuate the facility and procedures you will use to safely evacuate all personnel from the facility by vessel, capsule, or lifeboat. If you use helicopters during H_2S alerts, describe the types of H_2S emergencies during which you consider the risk of helicopter activity to be acceptable and the precautions you will take during the flights;

(8) Procedures you will use to safely position all vessels attendant to the facility. Indicate where you will locate the vessels with respect to wind direction. Include the distance from the facility and what procedures you will use to safely relocate the vessels in an emergency;

(9) How you will provide protective-breathing equipment for all personnel, including contractors and visitors;

(10) The agencies and facilities you will notify in case of a release of H_2S (that constitutes an emergency), how you will notify them, and their telephone numbers. Include all facilities that might be exposed to atmospheric concentrations of 20 ppm or more of H_2S;

(11) The medical personnel and facilities you will use if needed, their addresses, and telephone numbers;

(12) H_2S detector locations in production facilities producing gas containing 20 ppm or more of H_2S. Include an ''H_2S Detector Location Drawing'' showing:

(i) All vessels, flare outlets, wellheads, and other equipment handling production containing H_2S;

(ii) Approximate maximum concentration of H_2S in the gas stream; and

(iii) Location of all H_2S sensors included in your contingency plan;

(13) Operational conditions when you expect to flare gas containing H_2S including the estimated maximum gas flow rate, H_2S concentration, and duration of flaring;

(14) Your assessment of the risks to personnel during flaring and what precautionary measures you will take;

(15) Primary and alternate methods to ignite the flare and procedures for sustaining ignition and monitoring the status of the flare (i.e., ignited or extinguished);

(16) Procedures to shut off the gas to the flare in the event the flare is extinguished;

(17) Portable or fixed sulphur dioxide (SO_2)-detection system(s) you will use to determine SO_2 concentration and exposure hazard when H_2S is burned;

(18) Increased monitoring and warning procedures you will take when the SO_2 concentration in the atmosphere reaches 2 ppm;

(19) Personnel protection measures or evacuation procedures you will initiate when the SO_2 concentration in the atmosphere reaches 5 ppm;

(20) Engineering controls to protect personnel from SO_2; and

(21) Any special equipment, procedures, or precautions you will use if you conduct any combination of drilling, well-completion, well-workover, and production operations simultaneously.

(g) *Training program.*

(1) *When and how often do employees need to be trained?* All operators and contract personnel must complete an H_2S training program to meet the requirements of this section:

(i) Before beginning work at the facility; and

(ii) Each year, within 1 year after completion of the previous class.

(2) *What training documentation do I need?* For each individual working on the platform, either:

(i) You must have documentation of this training at the facility where the individual is employed; or

(ii) The employee must carry a training completion card.

(3) *What training do I need to give to visitors and employees previously trained on another facility?*

(i) Trained employees or contractors transferred from another facility must attend a supplemental briefing on your H_2S equipment and procedures before beginning duty at your facility;

(ii) Visitors who will remain on your facility more than 24 hours must receive the training required for employees by paragraph (g)(4) of this section; and

(iii) Visitors who will depart before spending 24 hours on the facility are exempt from the training required for employees, but they must, upon arrival, complete a briefing that includes:

(A) Information on the location and use of an assigned respirator; practice in donning and adjusting the assigned respirator; information on the safe briefing areas, alarm system, and hazards of H_2S and SO_2; and

(B) Instructions on their responsibilities in the event of an H_2S release.

(4) *What training must I provide to all other employees?* You must train all individuals on your facility on the:

(i) Hazards of H_2S and of SO_2 and the provisions for personnel safety contained in the H_2S Contingency Plan;

(ii) Proper use of safety equipment which the employee may be required to use;

(iii) Location of protective breathing equipment, H_2S detectors and alarms, ventilation equipment, briefing areas, warning systems, evacuation procedures, and the direction of prevailing winds;

(iv) Restrictions and corrective measures concerning beards, spectacles, and contact lenses in conformance with ANSI Z88.2;

(v) Basic first-aid procedures applicable to victims of H_2S exposure. During all drills and training sessions, you must address procedures for rescue and first aid for H_2S victims;

(vi) Location of:

(A) The first-aid kit on the facility;

(B) Resuscitators; and

(C) Litter or other device on the facility.

(vii) Meaning of all warning signals.

(5) *Do I need to post safety information?* You must prominently

post safety information on the facility and on vessels serving the facility (i.e,, basic first-aid, escape routes, instructions for use of life boats, etc.).

(h) *Drills. (1) When and how often do I need to conduct drills on H_2S* safety discussions on the facility? You must:

(i) Conduct a drill for each person at the facility during normal duty hours at least once every 7-day period. The drills must consist of a dry-run performance of personnel activities related to assigned jobs.

(ii) At a safety meeting or other meetings of all personnel, discuss drill performance, new H_2S considerations at the facility, and other updated H_2S information at least monthly.

(2) *What documentation do I need?* You must keep records of attendance for:

(i) Drilling, well-completion, and well-workover operations at the facility until operations are completed; and

(ii) Production operations at the facility or at the nearest field office for 1 year.

(i) *Visual and audible warning systems*—(1) *How must I install wind direction equipment?* You must install wind-direction equipment in a location visible at all times to individuals on or in the immediate vicinity of the facility.

(2) *When do I need to display operational danger signs, display flags, or activate visual or audible alarms?*

(i) You must display warning signs at all times on facilities with wells capable of producing H_2S and on facilities that process gas containing H_2S in concentrations of 20 ppm or more.

(ii) In addition to the signs, you must activate audible alarms and display flags or activate flashing red lights when atmospheric concentration of H_2S reaches 20 ppm.

(3) *What are the requirements for signs?* Each sign must be a high-visibility yellow color with black lettering as follows:

Letter height	Wording
12 inches	Danger. Poisonous Gas. Hydrogen Sulfide.
7 inches	Do not approach if red flag is flying.
(Use appropriate wording at right).	Do not approach if red lights are flashing.

(4) *May I use existing signs?* You may use existing signs containing the words ''Danger-Hydrogen Sulfide-H_2S,'' provided the words ''Poisonous Gas. Do Not Approach if Red Flag is Flying'' or ''Red Lights are Flashing'' in lettering of a minimum of 7 inches in height are displayed on a sign immediately adjacent to the existing sign.

(5) *What are the requirements for flashing lights or flags?* You must activate a sufficient number of lights or hoist a sufficient number of flags to be visible to vessels and aircraft. Each light must be of sufficient intensity to be seen by approaching vessels or aircraft any time it is activated (day or night). Each flag must be red, rectangular, a minimum width of 3 feet, and a minimum height of 2 feet.

(6) *What is an audible warning system*? An audible warning system is a public address system or siren, horn, or other similar warning device with a unique sound used only for H_2S.

(7) *Are there any other requirements for visual or audible warning devices?* Yes, you must:

(i) Illuminate all signs and flags at night and under conditions of poor visibility; and

(ii) Use warning devices that are suitable for the electrical classification of the area.

(8) *What actions must I take when the alarms are activated*? When the warning devices are activated, the designated responsible persons must inform personnel of the level of danger and issue instructions on the initiation of appropriate protective measures.

(j) *H_2S-detection and H_2S monitoring equipment.*—(1) *What are the requirements for an H_2S detection system?* An H_2S detection system must:

(i) Be capable of sensing a minimum of 10 ppm of H_2S in the atmosphere; and

(ii) Activate audible and visual alarms when the concentration of H_2S in the atmosphere reaches 20 ppm.

(2) *Where must I have sensors for drilling, well-completion, and well-workover operations?* You must locate sensors at the:

(i) Bell nipple;

(ii) Mud-return line receiver tank (possum belly);

(iii) Pipe-trip tank;

(iv) Shale shaker;

(v) Well-control fluid pit area;

(vi) Driller's station;

(vii) Living quarters; and

(viii) All other areas where H_2S may accumulate.

(3) *Do I need mud sensors?* The District Supervisor may require mud sensors in the possum belly in cases where the ambient air sensors in the mud-return system do not consistently detect the presence of H_2S.

(4) *How often must I observe the sensors?* During drilling, well-completion and well-workover operations, you must continuously observe the H_2S levels indicated by the monitors in the work areas during the following operations:

(i) When you pull a wet string of drill pipe or workover string;

(ii) When circulating bottoms-up after a drilling break;

(iii) During cementing operations;

(iv) During logging operations; and

(v) When circulating to condition mud or other well-control fluid.

(5) *Where must I have sensors for production operations?* On a platform where gas containing H_2S of 20 ppm or greater is produced, processed, or otherwise handled:

(i) You must have a sensor in rooms, buildings, deck areas, or low-laying deck areas not otherwise covered by paragraph (j)(2) of this section, where atmospheric concentrations of H_2S could reach 20 ppm or more. You must have at least one sensor per 400 square feet of deck area or fractional part of 400 square feet;

(ii) You must have a sensor in buildings where personnel have their living quarters;

(iii) You must have a sensor within 10 feet of each vessel, compressor, wellhead, manifold, or pump, which could release enough H_2S to result in atmospheric concentrations of 20 ppm at a distance of 10 feet from the component;

(iv) You may use one sensor to detect H_2S around multiple pieces of equipment, provided the sensor is located no more than 10 feet from each piece, except that you need to use at least two sensors to monitor compressors exceeding 50 horsepower;

(v) You do not need to have sensors near wells that are shut in at the master valve and sealed closed;

(vi) When you determine where to place sensors, you must consider:

(A) The location of system fittings, flanges, valves, and other devices subject to leaks to the atmosphere; and

(B) Design factors, such as the type of decking and the location of fire walls; and

(vii) The District Supervisor may require additional sensors or other monitoring capabilities, if warranted by site specific conditions.

(6) *How must I functionally test the H_2S Detectors?*

(i) Personnel trained to calibrate the particular H_2S detector equipment being used must test detectors by exposing them to a known concentration in the range of 10 to 30 ppm of H_2S.

(ii) If the results of any functional test are not within 2 ppm or 10 percent, whichever is greater, of the applied concentration, recalibrate the instrument.

(7) *How often must I test my detectors?*

(i) When conducting drilling, drill stem testing, well-completion, or well-workover operations in areas classified as H_2S present or H_2S unknown, test all detectors at least once every 24 hours. When drilling, begin functional testing before the bit is 1,500 feet (vertically) above the potential H_2S zone.

(ii) When conducting production operations, test all detectors at least every 14 days between tests.

(iii) If equipment requires calibration as a result of two consecutive functional tests, the District Supervisor may require that H_2S-detection and H_2S-monitoring equipment be functionally tested and calibrated more frequently.

(8) *What documentation must I keep?*

(i) You must maintain records of testing and calibrations (in the drilling or production operations report, as applicable) at the facility to show the present status and history of each device, including dates and details concerning:

(A) Installation;

(B) Removal;

(C) Inspection;

(D) Repairs;

(E) Adjustments; and

(F) Reinstallation.

(ii) Records must be available for inspection by MMS personnel.

(9) *What are the requirements for nearby vessels?* If vessels are stationed overnight alongside facilities in areas of H_2S present or H_2S unknown, you must equip vessels with an H_2S-detection system that activates audible and visual alarms when the concentration of H_2S in the atmosphere reaches 20 ppm. This requirement does not apply to vessels positioned upwind and at a safe distance from the facility in accordance with the positioning procedure described in the approved H_2S Contingency Plan.

(10) *What are the requirements for nearby facilities?* The District Supervisor may require you to equip nearby facilities with portable or fixed H_2S detector(s) and to test and calibrate those detectors. To invoke this requirement, the District Supervisor will consider dispersion modeling results from a possible release to determine if 20 ppm H_2S concentration levels could be exceeded at nearby facilities.

(11) *What must I do to protect against SO_2 if I burn gas containing H_2S?* You must:

(i) Monitor the SO_2 concentration in the air with portable or strategically placed fixed devices capable of detecting a minimum of 2 ppm of SO_2;

(ii) Take readings at least hourly and at any time personnel detect SO_2 odor or nasal irritation;

(iii) Implement the personnel protective measures specified in the H_2S Contingency Plan if the SO_2 concentration in the work area reaches 2 ppm; and

(iv) Calibrate devices every 3 months if you use fixed or portable electronic sensing devices to detect SO_2.

(12) *May I use alternative measures?* You may follow alternative measures instead of those in paragraph (j)(11) of this section if you propose and the Regional Supervisor approves the alternative measures.

(13) *What are the requirements for protective-breathing equipment?* In an area classified as H_2S present or H_2S unknown, you must:

(i) Provide all personnel, including contractors and visitors on a facility, with immediate access to self-contained pressure-demand-type respirators with hoseline capability and breathing time of at least 15 minutes.

(ii) Design, select, use, and maintain respirators to conform to ANSI Z88.2, American National Standard for Respiratory Protection.

(iii) Make available at least two voice-transmission devices, which can be used while wearing a respirator, for use by designated personnel.

(iv) Make spectacle kits available as needed.

(v) Store protective-breathing equipment in a location that is quickly and easily accessible to all personnel.

(vi) Label all breathing-air bottles as containing breathing-quality air for human use.

(vii) Ensure that vessels attendant to facilities carry appropriate protective-breathing equipment for each crew member. The District Supervisor may require additional protective-breathing equipment on certain vessels attendant to the facility.

(viii) During H_2S alerts, limit helicopter flights to and from facilities to the conditions specified in the H_2S Contingency Plan. During authorized flights, the flight crew and passengers must use pressure-demand-type respirators. You must train all members of flight crews in the use of the particular type(s) of respirator equipment made available.

(ix) As appropriate to the particular operation(s), (production, drilling, well-completion or well-workover operations, or any combination of them), provide a system of breathing-air manifolds, hoses, and masks at the facility and the briefing areas. You must provide a cascade air-bottle system for the breathing-air manifolds to refill individual protective-breathing apparatus bottles. The cascade air-bottle system may be recharged by a high-pressure compressor suitable for providing breathing-quality air, provided the compressor suction is located in an uncontaminated atmosphere.

(k) *Personnel safety equipment.*—(1) *What additional personnel-safety equipment do I need?* You must ensure that your facility has:

(i) Portable H_2S detectors capable of detecting a 10 ppm concentration of H_2S in the air available for use by all personnel;

(ii) Retrieval ropes with safety harnesses to retrieve incapacitated personnel from contaminated areas;

(iii) Chalkboards and/or note pads for communication purposes located on the rig floor, shale-shaker area, the cement-pump rooms, well-bay areas, production processing equipment area, gas compressor area, and pipeline-pump area;

(iv) Bull horns and flashing lights; and

(v) At least three resuscitators on manned facilities, and a number equal to the personnel on board, not to exceed three, on normally unmanned facilities, complete with face masks, oxygen bottles, and spare oxygen bottles.

(2) *What are the requirements for ventilation equipment?* You must:

(i) Use only explosion-proof ventilation devices;

(ii) Install ventilation devices in areas where H_2S or SO_2 may accumulate; and

(iii) Provide movable ventilation devices in work areas. The movable ventilation devices must be multidirectional and capable of dispersing H_2S or SO_2 vapors away from working personnel.

(3) *What other personnel safety equipment do I need?* You must have the following equipment readily available on each facility:

(i) A first-aid kit of appropriate size and content for the number of personnel on the facility; and

(ii) At least one litter or an equivalent device.

(l) *Do I need to notify MMS in the event of an H_2S release?* You must notify MMS without delay in the event of a gas release which results in a 15-minute time weighted average atmospheric concentration of H_2S of 20 ppm or more anywhere on the facility.

(m) *Do I need to use special drilling, completion and workover fluids or procedures?* When working in an area classified as H_2S present or H_2S unknown:

(1) You may use either water- or oil-base muds in accordance with § 250.40(b)(1).

(2) If you use water-base well-control fluids, and if ambient air sensors detect H_2S, you must immediately conduct either the Garrett-Gas-Train test or a

comparable test for soluble sulfides to confirm the presence of H_2S.

(3) If the concentration detected by air sensors in over 20 ppm, personnel conducting the tests must don protective-breathing equipment conforming to paragraph (j)(13) of this section.

(4) You must maintain on the facility sufficient quantities of additives for the control of H_2S, well-control fluid pH, and corrosion equipment.

(i) *Scavengers.* You must have scavengers for control of H_2S available on the facility. When H_2S is detected, you must add scavengers as needed. You must suspend drilling until the scavenger is circulated throughout the system.

(ii) *Control pH.* You must add additives for the control of pH to water-base well-control fluids in sufficient quantities to maintain pH of at least 10.0.

(iii) *Corrosion inhibitors.* You must add additives to the well-control fluid system as needed for the control of corrosion.

(5) You must degas well-control fluids containing H_2S at the optimum location for the particular facility. You must collect the gases removed and burn them in a closed flare system conforming to paragraph (q)(6) of this section.

(n) *What must I do in the event of a kick*? In the event of a kick, you must use one of the following alternatives to dispose of the well-influx fluids giving consideration to personnel safety, possible environmental damage, and possible facility well-equipment damage:

(1) Contain the well-fluid influx by shutting in the well and pumping the fluids back into the formation.

(2) Control the kick by using appropriate well-control techniques to prevent formation fracturing in an open hole within the pressure limits of the well equipment (drill pipe, work string, casing, wellhead, BOP system, and related equipment). The disposal of H_2S and other gases must be through pressurized or atmospheric mud-separator equipment depending on volume, pressure and concentration of H_2S. The equipment must be designed to recover well-control fluids and burn the gases separated from the well-control fluid. The well-control fluid must be treated to neutralize H_2S and restore and maintain the proper quality.

(o) *Well testing in a zone known to contain H_2S.* When testing a well in a zone with H_2S present, you must do all of the following:

(1) Before starting a well test, conduct safety meetings for all personnel who will be on the facility during the test. At the meetings, emphasize the use of protective-breathing equipment, first-aid procedures, and the Contingency Plan. Only competent personnel who are trained and are knowledgeable of the hazardous effects of H_2S must be engaged in these tests.

(2) Perform well testing with the minimum number of personnel in the immediate vicinity of the rig floor and with the appropriate test equipment to safely and adequately perform the test. During the test, you must continuously monitor H_2S levels.

(3) Not burn produced gases except through a flare which meets the requirements of paragraph (q)(6) of this section. Before flaring gas containing H_2S, you must activate SO_2 monitoring equipment in accordance with paragraph (j)(11) of this section. If you detect SO_2 in excess of 2 ppm, you must implement the personnel protective measures in your H_2S Contingency Plan, required by paragraph (f)(13)(iv) of this section. You must also follow the requirements of § 250.175. You must pipe gases from stored test fluids into the flare outlet and burn them.

(4) Use downhole test tools and wellhead equipment suitable for H_2S service.

(5) Use tubulars suitable for H_2S service. You must not use drill pipe for well testing without the prior approval of the District Supervisor. Water cushions must be thoroughly inhibited in order to prevent H_2S attack on metals. You must flush the test string fluid treated for this purpose after completion of the test.

(6) Use surface test units and related equipment that is designed for H_2S service.

(p) *Metallurgical properties of equipment.* When operating in a zone with H_2S present, you must use equipment that is constructed of materials with metallurgical properties that resist or prevent sulfide stress cracking (also known as hydrogen embrittlement, stress corrosion cracking, or H_2S embrittlement), chloride-stress cracking, hydrogen-induced cracking, and other failure modes. You must do all of the following:

(1) Use tubulars and other equipment, casing, tubing, drill pipe, couplings, flanges, and related equipment that is designed for H_2S service.

(2) Use BOP system components, wellhead, pressure-control equipment, and related equipment exposed to H_2S-bearing fluids that conform to NACE Standard MR.01–75–96.

(3) Use temporary downhole well-security devices such as retrievable packers and bridge plugs that are designed for H_2S service.

(4) When producing in zones bearing H_2S, use equipment constructed of materials capable of resisting or preventing sulfide stress cracking.

(5) Keep the use of welding to a minimum during the installation or modification of a production facility. Welding must be done in a manner that ensures resistance to sulfide stress cracking.

(q) *General requirements when operating in an H_2S* zone—(1) *Coring operations.* When you conduct coring operations in H_2S-bearing zones, all personnel in the working area must wear protective-breathing equipment at least 10 stands in advance of retrieving the core barrel. Cores to be transported must be sealed and marked for the presence of H_2S.

(2) *Logging operations.* You must treat and condition well-control fluid in use for logging operations to minimize the effects of H_2S on the logging equipment.

(3) *Stripping operations.* Personnel must monitor displaced well-control fluid returns and wear protective-breathing equipment in the working area when the atmospheric concentration of H_2S reaches 20 ppm or if the well is under pressure.

(4) *Gas-cut well-control fluid or well kick from H_2S-bearing zone.* If you decide to circulate out a kick, personnel in the working area during bottoms-up and extended-kill operations must wear protective-breathing equipment.

(5) *Drill- and workover-string design and precautions.* Drill- and workover-strings must be designed consistent with the anticipated depth, conditions of the hole, and reservoir environment to be encountered. You must minimize exposure of the drill- or workover-string to high stresses as much as practical and consistent with well conditions. Proper handling techniques mut be taken to minimize notching and stress concentrations. Precautions must be taken to minimize stresses caused by doglegs, improper stiffness ratios, improper torque, whip, abrasive wear on tool joints, and joint imbalance.

(6) *Flare system.* The flare outlet must be of a diameter that allows easy nonrestricted flow of gas. You must locate flare line outlets on the downside of the facility and as far from the facility as is feasible, taking into account the prevailing wind directions, the wake effects caused by the facility and adjacent structure(s), and the height of all such facilities and structures. You must equip the flare outlet with an automatic ignition system including a pilot-light gas source or an equivalent system. You must have alternate

methods for igniting the flare. You must pipe to the flare system used for H_2S all vents from production process equipment, tanks, relief valves, burst plates, and similar devices.

(7) *Corrosion mitigation.* You must use effective means of monitoring and controlling corrosion caused by acid gases (H_2S and CO_2) in both the downhole and surface portions of a production system. You must take specific corrosion monitoring and mitigating measures in areas of unusually severe corrosion where accumulation of water and/or higher concentration of H_2S exists.

(8) *Wireline lubricators.* Lubricators which may be exposed to fluids containing H_2S must be of H_2S-resistant materials.

(9) *Fuel and/or instrument gas.* You must not use gas containing H_2S for instrument gas. You must not use gas containing H_2S for fuel gas without the prior approval of the District Supervisor.

(10) *Sensing lines and devices.* Metals used for sensing line and safety-control devices which are necessarily exposed to H_2S-bearing fluids must be constructed of H_2S-corrosion resistant materials or coated so as to resist H_2S corrosion.

(11) *Elastomer seals.* You must use H_2S-resistant materials for all seals which may be exposed to fluids containing H_2S.

(12) *Water disposal.* If you dispose of produced water by means other than subsurface injection, you must submit to the District Supervisor an analysis of the anticipated H_2S content of the water at the final treatment vessel and at the discharge point. The District Supervisor may require that the water be treated for removal of H_2S. The District Supervisor may require the submittal of an updated analysis if the water disposal rate or the potential H_2S content increases.

(13) *Deck drains.* You must equip open deck drains with traps or similar devices to prevent the escape of H_2S gas into the atmosphere.

(14) *Sealed voids.* You must take precautions to eliminate sealed spaces in piping designs (e.g., slip-on flanges, reinforcing pads) which can be invaded by atomic hydrogen when H_2S is present.

5. In § 250.175, the section heading is revised and paragraph (f) is added to read as follows:

§ 250.175 Flaring or venting gas and burning liquid hydrocarbons.

* * * * *

(f) *Requirements for flaring and venting of gas containing H_2S*—(1) *Flaring of gas containing H_2S.* (i) The Regional Supervisor may, for safety or air pollution prevention purposes, further restrict the flaring of gas containing H_2S. The Regional Supervisor will use information provided in the lessee's H_2S Contingency Plan (§ 250.67(f)), Exploration Plan or Development and Production Plan, and associated documents in determining the need for such restrictions.

(ii) If the Regional Supervisor determines that flaring at a facility or group of facilities may significantly affect the air quality of an onshore area, the Regional Supervisor may require the operator(s) to conduct an air quality modeling analysis to determine the potential effect of facility emissions on onshore ambient concentrations of SO_2. The Regional Supervisor may require monitoring and reporting or may restrict or prohibit flaring pursuant to §§ 250.45 and 250.46.

(2) *Venting of gas containing H_2S.* You must not vent gas containing H_2S except for minor releases during maintenance and repair activities that do not result in a 15-minute time weighted average atmospheric concentration of H_2S of 20 ppm or higher anywhere on the platform.

(3) *Reporting flared gas containing H_2S.* In addition to the recordkeeping requirements of paragraphs (d) and (e) of this section, when required by the Regional Supervisor, the operator must submit to the Regional Supervisor a monthly report of flared and vented gas containing H_2S. The report must contain the following information:

(i) On a daily basis, the volume and duration of each flaring episode;

(ii) H_2S concentration in the flared gas; and

(iii) Calculated amount of SO_2 emitted.

[FR Doc. 97–1465 Filed 1–24–97; 8:45 am]

BILLING CODE 4310–MR–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[WA7–1–5542; WA38–1–6974; FRL–5675–7]

Approval and Promulgation of State Implementation Plans; Washington

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving portions of Washington State Implementation Plan revision submittals for particulate matter for the Spokane and Wallula, Washington, particulate matter nonattainment areas. EPA is also granting temporary waivers of the attainment date for both areas. This action extends the attainment date for particulate matter air pollution from December 31, 1994, to December 31, 1997, in both nonattainment areas. The granting of the temporary waivers will provide the Washington Department of Ecology (Ecology) time to complete technical evaluations of the anthropogenic and nonanthropogenic sources of windblown dust in the area. The purpose of the submitted revisions is to bring about the attainment of the national ambient air quality standards (NAAQS) for particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers (PM_{10}). The implementation plans were submitted by Ecology to satisfy certain federal Clean Air Act requirements for an approvable moderate PM_{10} nonattainment area SIPs for Spokane and Wallula, Washington.

EFFECTIVE DATE: March 28, 1997.

ADDRESSES: Written comments should be addressed to: Montel Livingston, SIP Manager, EPA, Office of Air Quality (OAQ 107), 1200 Sixth Avenue, Seattle, Washington 98101.

Copies of the State's request and other information supporting this proposed action are available for inspection during normal business hours at the following locations: EPA, Office of Air Quality, 1200 Sixth Avenue (AT–082), Seattle, Washington 98101, and State of Washington Department of Ecology, 300 Desmond Drive, Lacey, Washington 98503.

FOR FURTHER INFORMATION CONTACT: George Lauderdale, Office of Air Quality (AT–082), EPA, Region 10, Seattle, Washington 98101, (206) 553–6511.

SUPPLEMENTARY INFORMATION:

I. Background

The Spokane and Wallula, Washington areas were designated nonattainment for $PM–_{10}$ and classified as moderate under sections 107(d)(4)(B) and 188(a) of the Clean Air Act, upon enactment of the Clean Air Act Amendments of 1990.[1] See 56 FR 56694 (November 6, 1991). The air quality planning requirements for moderate PM_{10} nonattainment areas are set out in subparts 1 and 4 of Part D, Title I of the

[1] The 1990 Amendments to the Clean Air Act made significant changes to the Act. See Pub. L. No. 101–549, 104 Stat. 2399. References herein are to the Clean Air Act, as amended (''the Act''). The Clean Air Act is codified, as amended, in the U.S. Code at 42 U.S.C. sections 7401, *et seq.*

Act.[2] EPA has issued a ''General Preamble'' describing EPA's preliminary views on how EPA intends to review SIP's and SIP revisions submitted under Title I of the Act, including those state submittals containing materials to satisfy moderate PM_{10} nonattainment area SIP requirements. See generally 57 FR 13498 (April 16, 1992); see also 57 FR 18070 (April 28, 1992).

EPA published its proposed approval of the moderate nonattainment area PM–10 SIP for Spokane, Washington on July 9, 1996 (61 FR 35998–36004). On December 8, 1995, EPA announced its proposed approval of the moderate nonattainment area PM_{10} SIP for Wallula, Washington (60 FR 63019–63023). In those rulemaking actions, EPA described its interpretations of Title 1 and its rationale for proposing to approve temporary waivers of the PM–10 attainment date for the Spokane and Wallula areas taking into consideration the specific factual issues presented.

Those states containing initial moderate PM_{10} nonattainment areas (those areas designated nonattainment under section 107(d)(4)(B)) were required to submit an implementation plan that includes, among other things, the following by November 15, 1991:

1. Provisions to assure that reasonably available control measures (RACM) (including such reductions in emissions from existing sources in the area as may be obtained through the adoption, at a minimum, of reasonably available control technology (RACT)) shall be implemented no later than December 10, 1993;

2. Either a demonstration (including air quality modeling) that the plan will provide for attainment as expeditiously as practicable but no later than December 31, 1994, or a demonstration that attainment by that date is impracticable;

3. Quantitative milestones which are to be achieved every three years and which demonstrate reasonable further progress (RFP) toward attainment by December 31, 1994; and

4. Provisions to assure that the control requirements applicable to major stationary sources of PM_{10} also apply to major stationary sources of PM_{10} precursors except where the Administrator determines that such sources do not contribute significantly to PM_{10} levels which exceed the NAAQS in the area. See sections 172(c), 188, and 189 of the Act.

[2] Subpart 1 contains provisions applicable to nonattainment areas generally and subpart 4 contains provisions specifically applicable to PM–10 nonattainment areas. At times, subpart 1 and subpart 4 overlap or conflict. EPA has attempted to clarify the relationship among these provisions in the ''General Preamble'' and, as appropriate, in today's notice and supporting information.

II. Response To Comments

EPA received four letters containing comments on the July 9, 1996, proposal for Spokane (61 FR 35998). All comments were either positive in nature, requested further explanation on certain aspects of the proposed rulemaking, or indicated minor factual errors in the proposal. EPA appreciates the positive comments received from the Spokane Chamber of Commerce, City of Spokane, Kaiser Aluminum and the Spokane County Air Pollution Control Authority (SCAPCA).

Comment: Both the City of Spokane and the Spokane Area Chamber of Commerce letters, while generally supportive of EPA's proposal, commented that they consider using less traction sand and additional street sweeping as reasonable but an unfunded federal mandate.

Response: EPA understands the concern about costs of implementing these measures; however, it is necessary to point out that the federal Clean Air Act does not mandate specific control measures for particulates. Under the CAA, the state and local governments determine which sources of particulates are to be controlled and how those controls will be implemented. In Spokane's situation several miles of unpaved roads were paved using federal Department of Transportation funding and it is EPA's understanding that the purchase of street sweepers can be an eligible cost under certain conditions. EPA encourages the city to further investigate that funding source.

Comment: SCAPCA pointed out that a SCAPCA regulation for controlling emissions from paved surfaces should be referenced.

Response: EPA is adopting into the SIP Section 6.14 of SCAPCA Regulation 1, as the control measure for paved roads.

Comment: SCAPCA provided two comments regarding the new Natural Events Policy (May 30, 1996, Memorandum from Mary D. Nichols, Assistant Administrator for Air and Radiation, regarding ''Areas Affected by PM–10 Natural Events''). First, SCAPCA questioned the EPA requirement that RACM for nonanthropogenic sources of PM–10 be evaluated as part of the Columbia Plateau PM–10 study. SCAPCA's interpretation of the new policy is that EPA will not impose RACM requirements on nonanthropogenic sources. The second comment related to the options available to EPA once the temporary waiver expires. SCAPCA thinks that EPA should apply the new Natural Events Policy after expiration of the temporary waiver.

Response: Specific issues regarding the application of the Natural Events Policy to the Spokane and/or Wallula nonattainment areas is not within the purpose and scope of this rulemaking. EPA intends to address the above comments along with other issues related to the application of the policy, in close cooperation with both SCAPCA and Ecology in the near future.

Comment: SCAPCA's final comment related to the federal enforceability of the SCAPCA Orders 96–03, #96–04, #96–05 and #96–06 (all dated April 24, 1996) which lowered the potential to emit for the Kaiser Aluminum—Trentwood facility. SCAPCA reasoned that since the orders were issued under WAC 173–400–091, ''Voluntary Limits on Emissions'', they were automatically adopted into the SIP and therefore there was no need for EPA to specifically adopt the orders into the Spokane nonattainment area SIP.

Response: WAC–173–400–091 provides that an order issued under its authority shall be federally enforceable. However, the fact that the requirements of the orders may be federally enforceable does not make them federally enforceable without EPA approval of the orders as part of the SIP. Since these orders were submitted as part of the state's SIP revision, EPA is acting to approve submittals that are consistent with the Act. Under the Act, EPA must approve SIPs in order to assure that the SIP requirements will be both federally enforceable and permanent. SCAPCA issues orders under WAC 173–400–091 at the request of a source to limit a source's potential to emit, but SCAPCA also must revise or revoke the orders if the source proposes to deviate from any conditions in the order, so long as those limits are less than the limits approved into the SIP. Here, SCAPCA relies upon the potential to emit limitations of these orders in its attainment demonstration. The Clean Air Act requires that emission limitations and other measures relied on to ensure attainment and maintenance of the NAAQS be permanent. The voluntary nature of orders issued pursuant to WAC 173–400–091 does not ensure permanence of the potential to emit limits for the Kaiser Trentwood facility. Even though there is no reason to think the source would choose to increase the voluntary limits, the source could request and, under state law, SCAPCA would revise or revoke those limits without seeking EPA approval. Therefore, EPA is adopting the specific April 24, 1996, orders as part of the

Spokane attainment plan in order to make them a permanent part of the Washington SIP. Any changes to the conditions of the orders that would result in an increase in emissions above those specified in the order approved today will have to be approved by EPA as a revision to the SIP.

EPA received no comments on its December 8, 1995, (60 FR 63019–63023) Federal Register proposal to approve the Wallula moderate nonattainment area PM_{10} SIP as a revision.

III. Today's Action

Section 110(k) of the Act sets out provisions governing EPA's review of SIP submittals (see 57 FR 13565–66). For PM–10 nonattainment areas Section 188(f) of the Act (Waivers for Certain Areas) can apply as well.

In this action, EPA is granting a temporary waiver of the attainment date for the Spokane and the Wallula nonattainment areas. Specific discussion of EPA's requirements for a temporary waiver are detailed in 59 FR 41998–42017 (August 16, 1994). This EPA guidance provides certain flexibility for areas where the relative significance of anthropogenic and nonanthropogenic sources is unknown. Ecology has presented preliminary data, based on an analysis of the relative contributions of anthropogenic and nonanthropogenic sources of PM–10 contributing to eastern Washington exceedences, indicating that nonanthropogenic sources may be significant in the Spokane and Wallula nonattainment areas during windblown dust events. EPA accepts this preliminary information and grants temporary waivers of the moderate area attainment date to December 31, 1997 to allow Ecology to evaluate further the Spokane and Wallula nonattainment areas. Once that evaluation is completed, and/or the temporary waiver expires, EPA will make final determinations on the designations and other requirements.

The Memorandum of Agreement signed in August 1995, by Chuck Clarke, Regional Administrator EPA, Region 10, and Mary Riveland, Director, Washington State Department of Ecology will be in effect though the temporary waiver timeframe. This agreement outlines the approach each agency will take in completing work on the PM–10 problems in both the Spokane and Wallula nonattainment areas. The agreement states that ''the Spokane and Wallula nonattainment areas will retain the classification of a moderate PM–10 nonattainment area, until 12/31/97 unless PM–10 air quality data indicates that the area has failed to attain the 24-hour health standard because of exceedences that cannot be primarily attributed to windblown dust.'' As required in the EPA guidance, Ecology and EPA are proceeding under written agreements which include a protocol for both technical analysis (emission inventory, emission factor development, dispersion modeling, receptor modeling, etc.) and evaluation of alternative control measures, including Best Available Control Measures. The activities required under the protocol are generally referred to as the Columbia Plateau PM–10 Project funded by EPA, Ecology, and the U.S. Department of Agriculture (USDA).

Today's action does not relieve the areas from the Clean Air Act requirement to implement RACM. In the Spokane situation, EPA has concluded that agricultural windblown dust, residential wood combustion, and paved and unpaved roads have been reasonably controlled. In the Wallula situation, EPA has concluded that the dominant significant source of PM–10, agricultural windblown dust, as well as the two less significant sources, Boise Cascade papermill and Simplot Feeders Limited Partnership feedlot, in the nonattainment area have been reasonably controlled. Thus, EPA thinks it would not be reasonable to require other smaller sources of PM–10 in the areas to implement potentially available control measures or technology. Further, EPA believes implementation of such additional controls in the areas would not expedite attainment.

The 1991 SIP revision for Wallula contained a commitment from Ecology to adopt provisions of the federal Food Security Act (FSA) into state regulation. Although Ecology did not develop such a regulation EPA now determines that Ecology need not develop, adopt and submit state regulations that accomplish the same results as the current federal law and regulations. Such action would be unnecessary since the federal government (U.S. Department of Agriculture) has the primary responsibility for implementation, and enforcement, of provisions of the FSA.

EPA's approval of the temporary waiver of the attainment date defers approval/disapproval actions on several otherwise required elements of the moderate area plans for both Spokane and Wallula. EPA will take final action on the attainment demonstration, emission inventory, and contingency measures after the Columbia Plateau analysis is completed and/or the temporary waiver expires or if the new natural events policy is applied to these nonattainment areas.

Finally, EPA concludes that due to the small relative contribution of stationary sources to both the Spokane and Wallula nonattainment areas, stationary sources of PM–10 precursors provide an insignificant contribution to the areas ambient PM–10 concentrations. EPA grants the areas an exclusion from PM–10 precursor control requirements authorized under section 189(e) of the act for both nonattainment areas. Note that while EPA is making a general finding for the areas, this finding is based on the current character of the areas including, for example, the existing mix of sources in the areas. It is possible, therefore, that future growth could change the significance of precursors in the areas.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any state implementation plan. Each request for revision to the state implementation plan shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

IV. Administrative Review

A. Executive Order 12866

This action has been classified as a Table 3 action for signature by the Regional Administrator under the procedures published in the Federal Register on January 19, 1989 (54 FR 2214–2225), as revised by a July 10, 1995 memorandum from Mary Nichols, Assistant Administrator for Air and Radiation. The Office of Management and Budget (OMB) has exempted this regulatory action from E.O. 12866 review.

B. Regulatory Flexibility Act

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

SIP approvals under section 110 and subchapter I, part D of the Clean Air Act do not create any new requirements but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not impose any new requirements, the Administrator certifies that it does not

have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-State relationship under the CAA, preparation of a flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.S. EPA*, 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2).

C. Unfunded Mandates

Under Section 202 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated costs to State, local, or tribal governments in the aggregate; or to private sector, of $100 million or more. Under Section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the approval action does not include a Federal mandate that may result in estimated costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves pre-existing requirements under State or local law, and imposes no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

D. Submission to Congress and the General Accounting Office

Under 5 U.S.C. 801(a)(1)(A) as added by the Small Business Regulatory Enforcement Fairness Act of 1996, EPA submitted a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives and the Comptroller General of the General Accounting Office prior to publication of the rule in today's Federal Register. This rule is not a ''major rule'' as defined by 5 U.S.C. section 804(2).

E. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by March 28, 1997. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental Protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Particulate matter.

Note: Incorporation by reference of the Implementation Plan for the State of Washington was approved by the Director of the Office of Federal Register on July 1, 1982.

Dated: December 23, 1996.

Chuck Clarke,

Regional Administrator.

Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

Subpart WW—Washington

2. Section 52.2470 is amended by adding paragraph (c)(69) to read as follows:

§ 52.2470 Identification of plan.

* * * * *

(c) * * *

(69) EPA received from the Washington Department of Ecology PM_{10} nonattainment area plans for Wallula and Spokane, Washington, as revisions to the Washington state implementation plan.

(i) Incorporation by reference.

(A) November 13, 1991 letter from Washington Department of Ecology (WDOE) to EPA Region 10 submitting the *State Implementation Plan for Particulate Matter in the Wallula Study Area, A Plan for Attaining and Maintaining the National Ambient Air Quality Standard for PM_{10}* (including Appendices ''D'' (Exceptional Events Analysis), ''E'' (Reasonably Available Control Measure Analysis), ''F'' (Reasonably Available Control Technical Analysis of Boise Cascade, Wallula), and ''H'' (Discussion of Modified Attainment Demonstration)), adopted November 14, 1991; May 18, 1993 letter from WDOE forwarding a report titled, ''Addendum to the State Implementation Plan for the Wallula PM–10 Nonattainment Area, Reasonably Available Control Measure Analysis'', further describing the control measures being implemented in the area; June 23, 1994 letter from WDOE providing additional information describing the status of the control measures and forwarding an analysis of windblown dust in the area; April 28 and May 18, 1995, letters from WDOE to EPA Region 10, providing additional information on the allowable and fugitive emissions for point sources and air quality dispersion modeling; June 1, 1995, letter from WDOE providing information on allowable emissions; and a September 6, 1995, letter from WDOE forwarding a revised emission inventory for point sources within the Wallula nonattainment area.

(B) December 9, 1994, letter from WDOE submitting the Spokane PM_{10} Attainment Plan (including Appendices ''C'' (Analysis of PM_{10} Data/ Exceedances of the 24-Hour Standard), ''E'' (Detailed Analysis of Dust Storms/ Analysis of the Impact of Biogenic PM_{10} Sources), ''F'' (Analysis of PM_{10} Data/ Exceedances of the 24–Hour Standard, Excluding Dust Storms), ''I'' (Reasonable Available Control Measures Analysis), ''J,'' (Additional Controls/Contingency Measures), ''K,'' (Dispersion Modelling and Attainment Demonstration), and ''L,'' (Demonstration of Attainment of the Annual Standard)), dated December 1994, and adopted December 12, 1994;

(C) Spokane County Air Pollution Control Authority (SCAPCA) Order No. 91–01 providing for an alternate opacity limit for the Kaiser Aluminum and Chemical Corporation, Trentwood aluminum facility; SCAPCA Orders 96–03, 96–04, 96–05 and 96–06 (all dated April 24, 1996) lowering the potential to emit for the Kaiser Aluminum—Trentwood facility; and

(D) SCAPCA regulations: Article VI, section 6.05, ''Particulate Matter and Preventing Particulate Matter from Becoming Airborne,'' section 6.14, ''Standards for Control of Particulate Matter on Paved Surfaces,'' and section 6.15, ''Standards for Control of Particulate Matter on Unpaved Roads;'' (effective November 12, 1993); and Article VIII, ''Solid Fuel Burning Device Standards,'' (adopted April 7, 1988).

(ii) Additional material.

(A) SCAPCA's zoning ordinance provisions requiring the paving of new parking lots (4.17.059 and 4.802.080 of the Zoning Code of Spokane County, dated 5/24/90).

[FR Doc. 97–1847 Filed 1–24–97; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Part 52

[Region 2 Docket No. NJ16–2–160, FRL–5671–6]

Approval and Promulgation of Implementation Plans; Reasonably Available Control Technology for Oxides of Nitrogen for the State of New Jersey

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving a request by New Jersey to revise its State Implementation Plan (SIP) for ozone. This revision of the SIP was submitted by the State to satisfy Clean Air Act (the Act) requirements for adoption of rules for the application of reasonably available control technology (RACT) to sources that emit oxides of nitrogen (NO_X) in the entire State. EPA is approving Subchapter 19, ''Control and Prohibition of Air Pollution From Oxides of Nitrogen.''

EFFECTIVE DATE: This rule will be effective February 26, 1997.

ADDRESSES: Copies of the State submittal are available at the following addresses for inspection during normal business hours:

Environmental Protection Agency, Region 2 Office, Air Programs Branch, 290 Broadway, 25th Floor, New York, New York 10007–1866

New Jersey Department of Environmental Protection, Office of Air Quality Management, Bureau of Air Pollution Control, 401 East State Street, CN027, Trenton, New Jersey 08625

Environmental Protection Agency, Air and Radiation Docket and Information Center, Air Docket (6102), 401 M Street, S.W., Washington, D.C. 20460

FOR FURTHER INFORMATION CONTACT: Ted Gardella, Environmental Engineer, Air Programs Branch, Environmental Protection Agency, 290 Broadway, 25th Floor, New York, New York 10007–1866, (212) 637–4249.

SUPPLEMENTARY INFORMATION: On November 15, 1993, New Jersey submitted to EPA as a revision to its SIP, Subchapter 19, ''Control and Prohibition of Air Pollution From Oxides of Nitrogen,'' of Chapter 27, Title 7 of the New Jersey Administrative Code with an effective date of December 20, 1993. Subchapter 19 contains the NO_X RACT requirements for the State. The SIP revision was submitted to satisfy section 182(f) of the Act which requires states with ozone nonattainment areas classified moderate or above or with areas in the ozone transport region to apply RACT to major stationary sources of NO_X. On October 2, 1995, EPA published in the Federal Register (60 FR 51379) a Notice of Proposed Rulemaking (NPR) proposing to approve Subchapter 19 and provided for a 30-day public comment period. EPA received no comments regarding the NPR.

Subsequently, national policy discussions regarding the approvability of state regulations that contain generic provisions in establishing RACT requirements for major sources of NO_X and/or volatile organic compounds (VOC) emissions resulted in additional Agency guidance. Generic provisions are those portions of a regulation which require the application of RACT to an emission point, but the degree of control is not specified in the rule and is to be determined on a case-by-case basis taking technological and economic factors into consideration. Under the Act, these individually determined RACT limits would then need to be submitted by a state as a SIP revision for EPA approval. On November 7, 1996, EPA issued a policy memorandum providing additional guidance for approving regulations which contain these ''generic provisions.'' (Sally Shaver memorandum to EPA Division Directors, ''Approval Options for Generic RACT Rules Submitted to Meet the non-CTG VOC RACT Requirement and Certain NO_X RACT Requirements'').

EPA policy allows for the full approval of state generic RACT rules prior to EPA approval of all major source RACT determinations provided an analysis is completed that concludes that the remaining source RACT determinations involve a de minimis level of NO_X emissions. Such an approval does not exempt the remaining sources from RACT; rather it is a de minimis deferral of the approval of these case-by-case RACT limits. EPA has evaluated data provided by New Jersey and has determined that two percent of the NO_X emissions subject to RACT controls have not yet been regulated. EPA believes this amount to be de minimis. The two percent de minimis level is based on State submitted SIP revisions covering 22 facilities (out of approximately 40) whose RACT limits have been approved by EPA in a direct final action (See 62 FR 2581, January 17, 1997). New Jersey is preparing SIP revision requests for the approximate 20 remaining sources which account for the remaining two percent of NO_X emissions. While EPA has published a direct final approval for 22 source specific SIP revisions and does not anticipate adverse comments, even if the effective date is delayed EPA believes that full approval is appropriate because the unregulated emissions still do not exceed a de minimis threshold. Therefore, EPA has determined that New Jersey's NO_X RACT regulation conforms with EPA's policy regarding the approval of generic RACT provisions or rules, thereby allowing EPA to grant full approval to Subchapter 19.

As stated above, full approval of Subchapter 19 will not relieve sources of the obligation to develop, submit and implement RACT level controls. Nor will it relieve New Jersey of the obligation to ensure that all sources within the State comply with the NO_X RACT requirements of the Act by adopting and implementing emission limitations. The approval of Subchapter 19 requires that all major sources of NO_X must comply with RACT and this requirement is enforceable by EPA as well as citizen groups under Section 304 of the Act. If EPA determines that the regulated sources and the State are not complying with the requirement to adopt RACT, EPA could issue a SIP call or a finding of non-implementation of the SIP.

Conclusion

EPA has evaluated Subchapter 19 for consistency with the Act's provisions, EPA regulations and policy and has determined this regulation is fully approvable. Therefore, this rule makes final the action proposed at 60 FR 51379 dated October 2, 1995.

Administrative Requirements

Executive Order 12866

This action has been classified as a Table 3 action for signature by the Regional Administrator under the procedures published in the Federal Register on January 19, 1989 (54 FR 2214–2225), as revised by a July 10, 1995 memorandum from Mary Nichols, Assistant Administrator for Air and Radiation. The Office of Management and Budget (OMB) has exempted this regulatory action from E.O. 12866 review.

Regulatory Flexibility Act

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. [603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government

entities with jurisdiction over populations of less than 50,000.

SIP approvals under section 110 and subchapter I, part D of the Act do not create any new requirements but simply approve requirements that a state is already imposing. Therefore, because the federal SIP approval does not impose any new requirements, I certify that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-State relationship under the Act, preparation of a flexibility analysis would constitute federal inquiry into the economic reasonableness of state action. The Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.S. EPA,* 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2).

Unfunded Mandates

Under section 202 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated annual costs to state, local, or tribal governments in the aggregate; or to private sector, of $100 million or more. Under Section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the approval action promulgated does not include a federal mandate that may result in estimated annual costs of $100 million or more to either state, local, or tribal governments in the aggregate, or to the private sector. This federal action approves pre-existing requirements under state or local law, and imposes no new requirements. Accordingly, no additional annual costs to state, local, or tribal governments, or to the private sector, result from this action.

Submission to Congress and the General Accounting Office

Under 5 U.S.C. 801(a)(1)(A), as added by the Small Business Regulatory Enforcement Fairness Act of 1996, EPA submitted a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives and the Comptroller General of the General Accounting Office prior to publication of the rule in today's Federal Register. This rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

Petitions for Judicial Review

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by March 28, 1997. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: December 31, 1996.

William J. Muszynski,

Deputy Regional Administrator.

Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

Subpart FF—New Jersey

2. Section 52.1570 is amended by adding new paragraph (c)(60) to read as follows:

§ 52.1570 Identification of plan.

* * * * *

(c) * * *

(60) A revision to the New Jersey State Implementation Plan (SIP) for ozone for adoption of rules for application of reasonably available control technology (RACT) for oxides of nitrogen (NO_X) dated November 15, 1993, submitted by the New Jersey Department of Environmental Protection and Energy.

(i) Incorporation by reference:

(A) Title 7, Chapter 27, Subchapter 19, of the New Jersey Administrative Code entitled ''Control and Prohibition of Air Pollution from Oxides of Nitrogen,'' effective December 20, 1993.

(ii) Additional information:

(A) November 15, 1993 letter from Jeanne Fox, NJDEPE, to William J. Muszynski, EPA, requesting EPA approval of Subchapter 19.

3. Section 52.1605 is amended by adding a new entry for Subchapter 19 under the heading ''Title 7, Chapter 27'' to the table in numerical order to read as follows:

§ 52.1605 EPA—approved New Jersey regulations.

State regulation	State effective date	EPA approved date	Comments
* * * * *	*	*	*
Title 7, Chapter 27			
* * * * *	*	*	*
Subchapter 19, ''Control and Prohibition of Air Pollution from Oxides of Nitrogen.''.	Dec. 20, 1993	[January 27, 1997 and FR page citation]	
* * * * *	*	*	*

[FR Doc. 97–1845 Filed 1–24–97; 8:45 am]
BILLING CODE 6560–50–P

NATIONAL TRANSPORTATION SAFETY BOARD

49 CFR Part 831

Accident/Incident Investigation Procedures

AGENCY: National Transportation Safety Board.

ACTION: Final rule.

SUMMARY: The Board is updating its regulations on accident and incident investigation practices to reflect current operations and organization.

DATES: The new rules are effective February 26, 1997.

FOR FURTHER INFORMATION CONTACT: Jane F. Mackall, (202) 314–6080.

SUPPLEMENTARY INFORMATION: The majority of the current rules at 49 CFR Part 831 have not been updated since 1988. The changes adopted here for the most part reflect current accident and incident investigation practices. Because these rule changes affect only rules of agency organization, procedure, or practice, notice and comment procedures are not required and are not provided here. 5 U.S.C. 553(b)(B). Major changes to the rules include the following: (1) the Board's wreckage release form (6120.15) will be used, when needed, in all accident investigations, not just aviation investigations; (2) participation in accident investigations of individuals in legal positions has been clarified; (3) the requirement that all party representatives in aviation investigations sign the STATEMENT OF PARTY REPRESENTATIVES TO NTSB INVESTIGATION has been codified; (4) the Board member's role at accident sites has been clarified; (5) new sections have been added to address Trade Secrets Act and voluntary data submission issues; and (6) our policy regarding submissions received after a matter has been calendared by the Board for a meeting has been codified.

List of Subjects in 49 CFR Part 831

Aviation safety, Highway safety, Investigations, Marine safety, Pipeline safety, Railroad safety.

PART 831—ACCIDENT/INCIDENT INVESTIGATION PROCEDURES

1. The Authority citation for Part 831 is revised to read as follows:

Authority: Independent Safety Board Act of 1974, as amended (49 U.S.C. 1101 *et seq.*); Federal Aviation Act of 1958, as amended (49 U.S.C. 40101 *et seq.*).

2. Section 831.2 is revised to read as follows:

§ 831.2 Responsibility of Board.

(a) *Aviation.* (1) The Board is responsible for the organization, conduct, and control of all accident and incident investigations (see § 830.2 of this chapter) within the Untied States, its territories and possessions, where the accident or incident involves any civil aircraft or certain public aircraft (as specified in § 830.5 of this chapter), including an investigation involving civil or public aircraft (as specified in § 830.5) on the one hand, and an Armed Forces or intelligence agency aircraft on the other hand. It is also responsible for investigating accidents/incidents that occur outside the United States, and which involve civil aircraft and/or certain public aircraft, when the accident/incident is not in the territory of another country (*i.e.*, in international waters).

(2) Certain aviation investigations may be conducted by the Federal Aviation Administration (FAA), pursuant to a ''Request to the Secretary of the Department of Transportation to Investigate Certain Aircraft Accidents,'' effective February 10, 1977 (the text of the request is contained in the appendix to part 800 of this chapter), but the Board determines the probable cause of such accidents or incidents.[1] Under no circumstances are aviation investigations where the portion of the investigation is so delegated to the FAA by the Board considered to be joint investigations in the sense of sharing responsibility. These investigations remain NTSB investigations.

(3) The Board is the agency charged with fulfilling the obligations of the United States under Annex 13 to the Chicago Convention on International Civil Aviation (Eighth Edition, July 1994), and does so consistent with State Department requirements and in coordination with that department. Annex 13 contains specific requirements for the notification, investigation, and reporting of certain incidents and accidents involving international civil aviation. In the case of an accident or incident in a foreign state involving civil aircraft of U.S. registry or manufacture, where the foreign state is a signatory to Annex 13 to the Chicago Convention of the International Civil Aviation Organization, the state of occurrence is responsible for the investigation. If the accident or incident occurs in a foreign state not bound by the provisions of Annex 13 to the Chicago Convention, or if the accident or incident involves a public aircraft (Annex 13 applies only to civil aircraft), the conduct of the investigation shall be in consonance with any agreement entered into between the United States and the foreign state.

(b) *Surface.* The Board is responsible for the investigation of: railroad accidents in which there is a fatality, substantial property damage, or which involve a passenger train (see part 840 of this chapter); major marine casualties and marine accidents involving a public and non-public vessel or involving Coast Guard functions (see part 850 of this chapter[2]); highway accidents, including railroad grade-crossing accidents, the investigation of which is selected in cooperation with the States; and pipeline accidents in which there is a fatality, significant injury to the environment, or substantial property damage.

(c) *Other Accidents/Incidents.* The Board is also responsible for the investigation of an accident/incident that occurs in connection with the transportation of people or property which, in the judgment of the Board, is catastrophic, involves problems of a recurring character, or would otherwise carry out the policy of the Independent Safety Board Act of 1974. This authority includes, but is not limited to, marine and boating accidents and incidents not covered by part 850 of this chapter, and accidents/incidents selected by the Board involving transportation and/or release of hazardous materials.

3. Section 831.3 is revised to read as follows:

§ 831.3 Authority of Directors.

The Director, Office of Aviation Safety, or the Director, Office of Surface Transportation Safety, subject to the provisions of § 831.2 and part 800 of this chapter, may order an investigation into any accident or incident.

4. Section 831.4 is revised to read as follows:

§ 831.4 Nature of Investigation.

Accident and incident investigations are conducted by the Board to determine the facts, conditions, and circumstances relating to an accident or incident and the probable cause(s) thereof. These results are then used to ascertain measures that would best tend to prevent similar accidents or incidents

[1] The authority of a representative of the FAA during such investigations is the same as that of a Board investigator under this part.

[2] Part 850 also governs the conduct of certain investigations in which the Board and the Coast Guard participate jointly.

in the future. The investigation includes the field investigation (on-scene at the accident, testing, teardown, etc.), report preparation, and, where ordered, a public hearing. The investigation results in Board conclusions issued in the form of a report or ''brief'' of the incident or accident. Accident/incident investigations are fact-finding proceedings with no formal issues and no adverse parties. They are not subject to the provisions of the Administrative Procedure Act (5 U.S.C. 504 et seq.), and are not conducted for the purpose of determining the rights or liabilities of any person.

5. Section 831.5 is revised to read as follows:

§ 831.5 Priority of Board Investigations.

Any investigation of an accident or incident conducted by the Safety Board directly or pursuant to the appendix to part 800 of this chapter (except major marine investigations conducted under 49 U.S.C. 1131(a)(1)(E)) has priority over all other investigations of such accident or incident conducted by other Federal agencies. The Safety Board shall provide for the appropriate participation by other Federal agencies in any such investigation, except that such agencies may not participate in the Safety Board's determination of the probable cause of the accident or incident. Nothing in this section impairs the authority of other Federal agencies to conduct investigations of an accident or incident under applicable provisions of law or to obtain information directly from parties involved in, and witnesses to, the transportation accident or incident, provided they do so without interfering with the Safety Board's investigation. The Safety Board and other Federal agencies shall assure that appropriate information obtained or developed in the course of their investigations is exchanged in a timely manner.

6. Section 831.6 is revised to read as follows:

§ 831.6 Request to withhold information.

(a) *Trade Secrets Act (18 U.S.C. 1905), Exemption 4 of the Freedom of Information Act (5 U.S.C. 552) (FOIA), and The Independent Safety Board Act of 1974, as amended.*

(1) *General.* The Trade Secrets Act provides criminal penalties for unauthorized government disclosure of trade secrets and other specified confidential commercial information. The Freedom of Information Act authorizes withholding of such information; however, the Independent Safety Board Act, at 49 U.S.C. 1114(b), provides that the Board may, under certain circumstances, disclose information related to trade secrets.

(2) *Procedures.* Information submitted to the Board that the submitter believes qualifies as a trade secret or confidential commercial information subject either to the Trade Secrets Act or FOIA Exemption 4 shall be so identified by the submitter on each and every page of such document. The Board shall give the submitter of any information so identified, or information the Board has substantial reason to believe qualifies as a trade secret or confidential commercial information subject either to the Trade Secrets Act or FOIA Exemption 4, the opportunity to comment on any contemplated disclosure, pursuant to 49 U.S.C. 1114(b). In all instances where the Board determines to disclose pursuant to 49 U.S.C. 1114(b) and/or 5 U.S.C. 552, at least 10 days' notice will be provided the submitter. Notice may not be provided the submitter when disclosure is required by a law other than FOIA if the information is not identified by the submitter as qualifying for withholding, as is required by this paragraph, unless the Board has substantial reason to believe that disclosure would result in competitive harm.

(3) *Voluntarily-provided Safety Information.* It is the policy of the Safety Board that commercial, safety-related information provided to it voluntarily and not in the context of particular accident/incident investigations will not be disclosed. Reference to such information for the purposes of safety recommendations will be undertaken with consideration for the confidential nature of the underlying database(s).

(b) *Other.* Any person may make written objection to the public disclosure of any other information contained in any report or document filed, or otherwise obtained by the Board, stating the grounds for such objection. The Board, on its own initiative or if such objection is made, may order such information withheld from public disclosure when, in its judgment, the information may be withheld under the provisions of an exemption to the Freedom of Information Act (5 U.S.C. 552, see part 801 of this chapter), and its release is found not to be in the public interest.

7. Section 831.7 is revised to read as follows:

§ 831.7 Right to representation.

Any person interviewed by an authorized representative of the Board during the investigation, regardless of the form of the interview (sworn, unsworn, transcribed, not transcribed, etc.), has the right to be accompanied, represented, or advised by an attorney or non-attorney representative.

8. Section 831.8 is revised to read as follows:

§ 831.8 Investigator-in-charge.

The designated investigator-in-charge (IIC) organizes, conducts, controls, and manages the field phase of the investigation, regardless of whether a Board Member is also on-scene at the accident or incident site. (The role of the Board member at the scene of an accident investigation is as the official spokesperson for the Safety Board.) The IIC has the responsibility and authority to supervise and coordinate all resources and activities of all personnel, both Board and non-Board, involved in the on-site investigation. The IIC continues to have considerable organizational and management responsibilities throughout later phases of the investigation, up to and including Board consideration and adoption of a report or brief of probable cause(s).

9. Section 831.9 is amended by revising paragraph (a) to read as follows:

§ 831.9 Authority of Board representatives.

(a) *General.* Any employee of the Board, upon presenting appropriate credentials, is authorized to enter any property where an accident/incident subject to the Board's jurisdiction has occurred, or wreckage from any such accident/incident is located, and do all things considered necessary for proper investigation. Further, upon demand of an authorized representative of the Board and presentation of credentials, any Government agency, or person having possession or control of any transportation vehicle or component thereof, any facility, equipment, process or controls relevant to the investigation, or any pertinent records or memoranda, including all files, hospital records, and correspondence then or thereafter existing, and kept or required to be kept, shall forthwith permit inspection, photographing, or copying thereof by such authorized representative for the purpose of investigating an accident or incident, or preparing a study, or related to any special investigation pertaining to safety or the prevention of accidents. The Safety Board may issue a subpoena, enforceable in Federal district court, to obtain testimony or other evidence. Authorized representatives of the Board may question any person having knowledge relevant to an accident/incident, study, or special investigation. Authorized representatives of the Board also have exclusive authority, on behalf of the Board, to decide the way in which any testing will be conducted, including

decisions on the person that will conduct the test, the type of test that will be conducted, and any individual who will witness the test.

* * * * *

10. Section 831.11 is revised to read as follows:

§ 831.11 Parties to the investigation.

(a) *All Investigations, regardless of mode.* (1) The investigator-in-charge designates parties to participate in the investigation. Parties shall be limited to those persons, government agencies, companies, and associations whose employees, functions, activities, or products were involved in the accident or incident and who can provide suitable qualified technical personnel actively to assist in the investigation. Other than the FAA in aviation cases, no other entity is afforded the right to participate in Board investigations.

(2) Participants in the investigation (*i.e.*, party representatives, party coordinators, and/or the larger party organization) shall be responsive to the direction of Board representatives and may lose party status if they do not comply with their assigned duties, actively proscriptions or instructions, or if they conduct themselves in a manner prejudicial to the investigation.

(3) No party to the investigation shall be represented in any aspect of the NTSB investigation by any person who also represents claimants or insurers. No party representative may occupy a legal position (see § 845.13 of this chapter). Failure to comply with these provisions may result in sanctions, including loss of status as a party.

(4) Title 49, United States Code § 1132 provides for the appropriate participation of the FAA in Board investigations, and § 1131(a)(2) provides for such participation by other departments, agencies, or instrumentalities. The FAA and those other entities that meet the requirements of paragraph (a)(1) of this section will be parties to the investigation with the same rights and privileges and subject to the same limitations as other parties, provided however that representatives of the FAA need not sign the ''Statement of Party Representatives to NTSB Investigation'' (see paragraph (b) of this section).

(b) *Aviation investigations.* In addition to compliance with the provisions of paragraph (a) of this section, and to assist in ensuring complete understanding of the requirements and limitations of party status, all party representatives in aviation investigations shall sign ''Statement of Party Representatives to NTSB Investigation'' immediately upon attaining party representative status. Failure timely to sign that statement may result in sanctions, including loss of status as a party.

11. Section 831.12 is revised to read as follows:

§ 831.12 Access to and release of wreckage, records, mail, and cargo.

(a) Only the Board's accident investigation personnel, and persons authorized by the investigator-in-charge to participate in any particular investigation, examination or testing shall be permitted access to wreckage, records, mail, or cargo in the Board's custody.

(b) Wreckage, records, mail, and cargo in the Board's custody shall be released by an authorized representative of the Board when it is determined that the Board has no further need of such wreckage, mail, cargo, or records. When such material is released, Form 6120.15, ''*Release of Wreckage*,'' will be completed, acknowledging receipt.

12. Section 831.13 is amended by revising the heading and paragraph (b) to read as follows:

§ 831.13 Flow and dissemination of accident or incident information.

* * * * *

(b) All information concerning the accident or incident obtained by any person or organization participating in the investigation shall be passed to the IIC through appropriate channels before being provided to any individual outside the investigation. Parties to the investigation may relay to their respective organizations information necessary for purposes of prevention or remedial action. However, no information concerning the accident or incident may be released to any person not a party representative to the investigation (including non-party representative employees of the party organization) before initial release by the Safety Board without prior consultation and approval of the IIC.

13. Section 831.14 is revised to read as follows:

§ 831.14 Proposed findings.

(a) *General.* Any person, government agency, company, or association whose employees, functions, activities, or products were involved in an accident or incident under investigation may submit to the Board written proposed findings to be drawn from the evidence produced during the course of the investigation, a proposed probable cause, and/or proposed safety recommendations designed to prevent future accidents.

(b) *Timing of submissions.* To be considered, these submissions must be received before the matter is calendared for consideration at a Board meeting. All written submissions are expected to have been presented to staff in advance of the formal scheduling of the meeting. This procedure ensures orderly and thorough consideration of all views.

(c) *Exception.* This limitation does not apply to safety enforcement cases handled by the Board pursuant to part 821 of this chapter. Separate *ex parte* rules, at part 821, subpart J, apply to those proceedings.

Issued in Washington, DC this 21st day of January, 1997.

Jim Hall,

Chairman.

[FR Doc. 97–1810 Filed 1–24–97; 8:45 am]

BILLING CODE 7533–01–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 940553–4223; I.D. 012197A]

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic; Closure

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Closure.

SUMMARY: NMFS closes the commercial hook-and-line fishery for king mackerel in the exclusive economic zone (EEZ) in the Florida west coast subzone. This closure is necessary to protect the overfished Gulf king mackerel resource.

EFFECTIVE DATE: The closure is effective 12:01 a.m., local time, January 22, 1997, through June 30, 1997.

FOR FURTHER INFORMATION CONTACT: Mark F. Godcharles, 813–570–5305.

SUPPLEMENTARY INFORMATION: The fishery for coastal migratory pelagic fish (king mackerel, Spanish mackerel, cero, cobia, little tunny, dolphin, and, in the Gulf of Mexico only, bluefish) is managed under the Fishery Management Plan for the Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic (FMP). The FMP was prepared by the Gulf of Mexico and South Atlantic Fishery Management Councils (Councils) and is implemented by regulations at 50 CFR part 622 under the authority of the Magnuson-Stevens Fishery Conservation and Management Act.

Based on the Councils' recommended total allowable catch and the allocation ratios in the FMP, NMFS implemented a commercial quota for the Gulf of Mexico migratory group of king mackerel in the Florida west coast subzone of 865,000 lb (392,357 kg). That quota was further divided into two equal quotas of 432,500 lb (196,179 kg) for vessels in each of two groups by gear types—vessels fishing with run-around gillnets and those using hook-and-line gear (50 CFR 622.42(c)(1)(i)(A)(*2*)).

In accordance with 50 CFR 622.43(a)(3), NMFS is required to close any segment of the king mackerel commercial fishery when its quota is reached, or is projected to be reached, by publishing a notification in the Federal Register. NMFS has determined that the commercial quota of 432,500 lb (196,179 kg) for Gulf group king mackerel for vessels using hook-and-line gear in the Florida west coast subzone was reached on January 21, 1997. Accordingly, the commercial fishery for king mackerel for such vessels in the Florida west coast subzone is closed effective 12:01 a.m., local time, January 22, 1997, through June 30, 1997, the end of the fishing year.

The Florida west coast subzone extends from 87°31'06'' W. long. (due south of the Alabama/Florida boundary) to: (1) 25°20.4' N. lat. (due east of the Dade/Monroe County, FL, boundary) through March 31, 1997; and (2) 25°48' N. lat. (due west the Monroe/Collier County, FL, boundary) from April 1, 1997, through October 31, 1997.

NMFS previously determined that the commercial quota of king mackerel from the western zone of the Gulf of Mexico was reached and closed that segment of the fishery on August 26, 1996 (61 FR 44184, August 28, 1996). Subsequently, NMFS determined that the commercial quota of king mackerel for vessels using run-around gillnet gear in the Florida west coast subzone of the eastern zone of the Gulf of Mexico was reached and closed that segment of the fishery at noon on January 7, 1997 (62 FR 1402, January 10, 1997). Thus, with this closure, all commercial fisheries for king mackerel in the EEZ are closed from the U.S./Mexico border through the Florida west coast subzone through June 30, 1996.

Except for a person aboard a charter vessel or headboat, during the closure, no person aboard a vessel permitted to fish under a commercial quota may fish for Gulf group king mackerel in the EEZ in the closed zones or retain Gulf group king mackerel in or from the EEZ of the closed zones. A person aboard a vessel for which the permit indicates both commercial king mackerel and charter/headboat for coastal migratory pelagic fish may continue to retain king mackerel under the bag and possession limit set forth in 50 CFR 622.39(c)(1)(ii), provided the vessel is operating as a charter vessel or headboat.

During the closure, king mackerel from the closed zones taken in the EEZ, including those harvested under the bag limit, may not be purchased or sold. This prohibition does not apply to trade in king mackerel from the closed zones that were harvested, landed ashore, and sold prior to the closure and were held in cold storage by a dealer or processor.

Classification

This action is taken under 50 CFR 622.43(a)(3) and is exempt from review under E.O. 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: January 21, 1997.

George H. Darcy,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 97–1824 Filed 1–21–97; 4:26 pm]

BILLING CODE 3510–22–F

Proposed Rules

Federal Register
Vol. 62, No. 17
Monday, January 27, 1997

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Office of the Secretary

7 CFR Part 17

Regulations Governing the Financing of Commercial Sales of Agricultural Commodities

AGENCY: Commodity Credit Corporation, Agriculture.

ACTION: Proposed rule.

SUMMARY: The Commodity Credit Corporation (CCC) proposes to revise the regulations applicable to the financing of the sale and exportation of agricultural commodities pursuant to title I of the Agricultural Trade Development and Assistance Act of 1954, as amended (Pub. L. 480).

The purpose of these changes is to simplify the purchasing procedures and shorten the regulations, keep the costs of the Pub. L. 480, title I program as low as possible, reflect the provisions of the Federal Agricultural Improvement and Reform Act of 1996 (''FAIR Act of 1996''), and reduce the public reporting burden.

DATES: Written comments in duplicate should be submitted on or before March 28, 1997.

ADDRESSES: Comments should be sent to Christopher E. Goldthwait, General Sales Manager, Foreign Agricultural Service, U.S. Department of Agriculture, Room 5071 South Building, Stop 1001, 1400 Independence Ave., S.W., Washington, D.C. 20250–1001.

FOR FURTHER INFORMATION CONTACT: Connie B. Delaplane, Director, P.L. 480 Operations Division, Export Credits, Foreign Agricultural Service, Room 4549 South Building, Stop 1033, U.S. Department of Agriculture, 1400 Independence Ave., S.W., Washington, D.C. 20250–1033. Telephone: (202) 720–3664.

SUPPLEMENTARY INFORMATION: This proposed rule is issued in conformance with Executive Order 12866. It has been determined significant for the purposes of E.O. 12866 and, therefore, has been reviewed by the Office of Management and Budget (OMB).

Regulatory Flexibility Act

This proposed rule has been reviewed with regard to the requirements of the Regulatory Flexibility Act. The Vice President, CCC, who is the General Sales Manager, has certified that this rule will not have a significant economic impact on a substantial number of small entities. The proposed rule would eliminate several existing program requirements which should make it easier for firms to participate, including small businesses, and may result in some suppliers receiving payment more quickly. A copy of this proposed rule has been submitted to the General Counsel, Small Business Administration.

Executive Order 12372

This program is not subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with state and local officials. See the Notice related to 7 CFR Part 3015, Subpart V, published at 48 FR 29115 (June 24, 1983).

Paperwork Reduction Act

This proposed rule revises the Pub. L. 480, title I financing regulations. CCC has submitted the information collection requirements in this proposed rule to the Office of Management and Budget (OMB) for approval under the Paperwork Reduction Act, 44 U.S.C. 3501 et seq.

Title: Regulations—Financing Commercial Sales of Agricultural Commodities Under Title I, Pub. L. 480.

OMB Control Number: 0551–0005.

Expiration Date of Approval: Three years from OMB approval.

Type of Request: Revision.

Abstract: The purpose of the changes in this proposed rule is to simplify the purchasing procedures and shorten the regulations, keep the costs of the Pub. L. 480, title I program as low as possible, reflect the provisions of the ''FAIR Act of 1996'', and reduce the public reporting burden. The proposed rule would eliminate the requirement that suppliers report to USDA payments to representatives of importing countries and the requirement that prospective commodity suppliers submit information to the P.L. 480 Operations Division in order to participate. Prospective suppliers that have been determined to be eligible for participation in the GSM–102 or GSM–103 export credit guarantee programs could participate in title I sales. Prospective suppliers that are not yet eligible for GSM programs would have to submit information to GSM; this information is not as extensive as that presently required for becoming an eligible supplier under title I. CCC would require shipping agents to provide complete information on the firm and its activities only once per fiscal year instead of doing so each time they are nominated by a title I importer.

The recordkeeping requirement would be retained. Successful commodity suppliers would still be required to report to USDA the details of sales made under the program for price review and to submit to USDA, for approval, information on any amendments to the sales.

Estimate of Burden: CCC estimates the public reporting burden to be 1 hour for new suppliers that need to develop the information necessary for eligibility under GSM programs; 1¼ hours for shipping agents to prepare a complete package of information required by the regulations each fiscal year and ¼ hour to prepare each subsequent submission updating information as changes occur; and ¼ hour for commodity suppliers to prepare telephonic notices of sale and requests for approval of sale amendments.

Respondents: Commodity suppliers that are interested in becoming eligible to participate in title I sales; shipping agents that have been selected by importers to help them purchase Title I commodities and arrange ocean transportation; and commodity suppliers that have been awarded sales under the program.

Estimated Number of Respondents: Eight new commodity suppliers; 10 shipping agents; and 15 successful commodity suppliers.

Estimated Number of Responses per Respondent: One for each new commodity supplier; between 1 and 4 for each shipping agent; and, between 1 and 25 for each successful commodity supplier.

Estimated Total Annual Burden on Respondents: Including recordkeeping requirements, 455 burden hours.

CCC requests comments regarding: (a) Whether the collection of information is necessary for the proper performance of

the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

USDA will accept comments on this information collection at: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503, and to Connie B. Delaplane, Director, Pub. L. 480 Operations Division, Export Credits, Foreign Agricultural Service, Room 4549 South Building, Stop 1033, U.S. Department of Agriculture, 1400 Independence Avenue, SW, Washington, DC 20250–1033. USDA will incorporate all comments as part of the public record.

The Paperwork Reduction Act requires OMB to make a decision concerning the collection(s) of information contained in this proposed rule between 30 and 60 days after publication of this document in the Federal Register. Therefore, a comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication. This does not affect the deadline for the public to comment to USDA on the proposed rule. CCC submitted the information collection requirements to OMB totaling 455 burden hours.

Executive Order 12988

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. The proposed rule would have preemptive effect with respect to any state or local laws, regulations, or policies which conflict with such provisions or which otherwise impede their full implementation. The final rule would not have retroactive effect. The rule does not require that administrative remedies be exhausted before suit may be filed.

Background

Title I of the Agricultural Trade Development and Assistance Act of 1954, as amended (Pub. L. 480) authorizes CCC to finance the sale and exportation of agricultural commodities on concessional credit terms. 7 U.S.C. 1701 *et seq.* On September 13, 1995, the Foreign Agricultural Service (FAS) published an Advance Notice of Proposed Rulemaking (60 FR 47495) requesting comments on how to streamline and simplify the purchasing and shipment procedures under the Public Law 480, title I program. CCC considered these comments in drafting the proposed rule, and welcomes further input regarding the issues raised in the ANPRM at this stage of rulemaking procedure. The key comments received are discussed below, except those that were outside the scope of the ANPRM and those which have already been implemented by final rules published on December 7, 1995 (60 FR 62072) and April 23, 1996 (61 FR 17823). A copy of the ''Benefit-Cost Assessment'' prepared in connection with this proposed rule can be obtained from Connie B. Delaplane. See ''For Further Information Contact.''

Discussion of Comments

Purchase Authorization

After CCC and the participant have signed a title I agreement, CCC issues a purchase authorization (''PA'') which establishes general specifications for the commodity to be purchased, sets the contracting and delivery periods, and establishes conditions for CCC's financing of the commodity and any authorized ocean transportation costs. The participant issues, upon CCC approval, public Invitations for Bids (''IFB's'') for commodities and ocean transportation. These IFB's contain the importer's requirements including precise commodity specifications, delivery dates, and payment documents. Subsequently the importer and suppliers of commodities and ocean transportation enter into contracts based upon offers received in response to these IFB's.

The ANPRM asked for comments on whether the PA could be eliminated, with the relevant portions being incorporated into the financing regulations or the IFB, as appropriate. Most comments stated there was no urgent need for the PA, agreeing that the PA terms could be incorporated in the title I agreement, the buyer's IFB or the regulations. One comment supported retaining the PA, suggesting that the PA terms were not appropriate for either the regulations or the IFB.

The proposed rule would retain the PA. By doing so CCC could delete from the regulations Appendix A (Contracting Requirements) and Appendix B (Documentary Requirements). CCC's up-to-date contracting and documentary requirements for a commodity would appear in the PA. (The regulations specify that the PA may contain requirements in addition to, or in lieu of, the regulations.) Through the PA we could quickly update CCC's program requirements, if needed, and make that information widely available. If the PA did not exist, it would be necessary to make such changes by amending the regulations or the title I agreement, which could delay purchasing and shipment of the commodities. If the buyer were required to include such information in the IFB's, those documents would be longer and more complex.

Some respondents felt that the PA issuance procedure could cause delays in implementing the program. We would like to receive specific examples of such delays to help us improve the process. A delay in PA issuance may simply reflect the fact that the participant is not ready to purchase.

Letters of Credit

After the participant enters into commodity and ocean freight contracts, the existing regulations provide that the importer must cause a separate letter of credit to be opened for the commodity supplier, and for the supplier of ocean transportation when CCC is financing any part of the ocean transportation. CCC also issues a Letter of Commitment to the U.S. bank that has issued, confirmed or advised the letter of credit. The supplier receives payment from the bank upon presentation of required documentation. CCC will reimburse the bank, pursuant to this Letter of Commitment, for payments made under the letter of credit.

The ANPRM asked for comments on an alternative procedure under which CCC would simply pay the suppliers directly for the commodity and for ocean freight costs which are financed by CCC. The participant would not open a letter of credit for these amounts, and there would be no need for CCC to issue any Letters of Commitment.

Most comments supported direct payment by CCC, noting that the bank charges associated with letters of credit ranged from 1–2% of the value of the letter of credit. Since the buyers were required to bear these costs, the benefit of the title I program to the recipient was lessened. Under the proposed rule, title I recipients would save about $2.5–$5 million each year in banking costs, based on an estimated $250 million per year which would be paid directly to suppliers by CCC instead of through letters of credit. U.S. banks would bear some costs from this change, based on the loss of these fees, and reduced opportunities to develop business relationships with food aid recipients.

The change is proposed based on the assessment that the cost to U.S. banks would be outweighed by the significant benefits to food aid recipients, given the relatively small size of these letter of credit fees relative to total bank income, the static or declining food aid budget, and the length of time needed for recipients to develop into commercial opportunities for U.S. banks. There would still be opportunities for banks to issue letters of credit for a portion of the ocean freight costs, as discussed in detail below. Based on the fiscal year 1996 title I program, such letters of credit might be opened for about $16 million, generating banking fees of $160,000–$320,000.

Commodity suppliers have generally been unwilling to load vessels without a letter of credit to secure payment. Such delayed loading can be costly to the recipient, which may owe ''carrying charges'' to the commodity supplier and ''detention'' to the supplier of ocean transportation. These costs are not financed by CCC and they can be significant; for example, one day of ''detention'' for a U.S.-flag vessel can cost the recipient as much as $25,000.

Finally, some title I recipient countries do not have well established banking systems through which to open letters of credit.

As a result, the proposed rule would adopt the procedure for direct payment by CCC for all commodity and freight costs which are financed by CCC (see § 17.9.) In connection with this change, the proposed rule would also prohibit certain payments which are permitted under existing regulations, but which cannot be financed by CCC. This includes consular fees for legalization of documents, and total ocean transportation brokerage commissions in excess of 2½ percent of the freight. Under existing regulations, the supplier is required to show on the invoice any amounts which are not eligible for financing by CCC. The bank may then pay the supplier the total invoice amount under the importer's letter of credit, and CCC would deduct the ineligible amount from its reimbursement to the bank under the Letter of Commitment. With the proposed direct payment procedure, there is no simple mechanism to allow a supplier to be paid for such costs while protecting CCC from ultimately bearing the costs. It would not be equitable to prohibit a supplier from recouping these costs as part of the supplier's sales price and such a rule may discourage firms from showing on the invoice any amounts ineligible for CCC financing. Consequently, the proposed rule would prohibit payment of these costs; however, suggestions are requested regarding other ways to address the issue of costs which are ineligible for CCC financing.

Several comments expressed concern about how quickly CCC would pay suppliers, saying that direct payment would not be beneficial if it took longer than payment by a bank under a letter of credit. CCC plans to pay suppliers as promptly as a bank does, upon receipt of the documentation required by the importer and by CCC.

This proposal is not expected to significantly increase USDA's workload, although there will be a slight increase in burden for the Farm Service Agency (''FSA''), which would be responsible for making the payments to suppliers.

One comment raised the issue of potential financial exposure on the part of CCC for financing a product that did not meet specifications, for example. CCC would examine each document with reasonable care to ascertain that it appears on its face to be in accord with documentary requirements specified in the regulations, the PA, and the buyer's own IFB or contract. Agreements between CCC and the participants would provide that CCC would be liable only for breaching this standard of review.

Comments indicated some confusion regarding payment of ocean transportation costs. CCC would not require the participant to open a letter of credit for shipments for which the participant paid the entire freight costs, or in the rare instances when CCC financed 100% of the freight costs. However, when CCC financed a portion of the freight costs on a shipment and the participant paid the balance, the participant would be required to open a letter of credit for its share of the freight costs. For example, when commodities are shipped on a U.S.-flag vessel and CCC finances only the ocean freight differential, the supplier would collect the ocean freight differential from CCC and the balance from a U.S. bank under the participant's letter of credit.

The regulations would require the participant to open this partial letter of credit in order to provide the supplier of ocean transportation a high level of confidence that the participant's portion of the freight would be paid in accordance with the contract. This should keep freight costs down and encourage competition.

CCC would not pay any commodity or freight costs which were not to be financed by CCC, which is consistent with the current operation of the program.

Cost and Freight

The ANPRM asked for comments on whether CCC should finance commodity contracts on a cost and freight (C&F) basis, or a cost, insurance and freight (CIF) basis, instead of requiring separate contracts for the commodity and the ocean transportation. Under such contracts the commodity supplier would be responsible for securing ocean transportation.

Respondents were concerned that such contracts would keep smaller commodity suppliers, which do not own or control vessels, from offering competitively. They also noted that it would be more difficult to enforce cargo preference requirements for use of U.S.-flag vessels with C&F or CIF sales. Several comments stated that contracting under these terms would blur the distinction between the commodity costs and the freight costs, complicating both commodity price review and the determination of ''fair and reasonable'' U.S.-flag freight rates by the Maritime Administration, Department of Transportation. The proposed rule retains the option for such contracts; however, permitting such contracts would be a matter of agency policy, as at present.

Other Comments

The proposed rule contains several provisions based on other comments submitted in response to the ANPRM. For example, shipping agents (firms helping the buyers arrange the purchase and shipment of Title I commodities) would be required to provide complete information on the firm and its activities only once per fiscal year. At present, they must submit the information each time a firm is nominated by a recipient. The firm would certify, in conjunction with any subsequent nominations as shipping agent during the fiscal year, that the information initially submitted was still current, or would specify any changes. This proposal would reduce the reporting burden on shipping agents and also save a small amount of FAS staff time.

Another comment recommended that the Form FAS–359 (''Declaration of Sale'') and the Form CCC–105 (''Request for Vessel Approval'') be eliminated. We believe that it is necessary to retain a written price approval document, a purpose served by the existing ''Declaration of Sale'' form. This key document insures that all parties—the commodity supplier, FAS, and the entity making payment—clearly understand the terms of the sale as approved for financing by CCC. The document includes the unit price,

delivery period, and commodity specifications.

The Form CCC–105, submitted to FAS by the charterer, is the formal written notification from the importer regarding the ocean freight contract and contains the information on which the written ''Advice of Vessel Approval'' is based (Form CCC–106). The latter form is a required payment document, which shows the amount of freight to be financed by CCC, along with the main contract terms. If the Form CCC–105 were eliminated, the CCC–106 would be more likely to contain errors and thus delay payment to the supplier.

Other Key Changes

The proposed rule would contain a definition of ''private entity,'' and would amend the definition of ''participant'' to cover both private entities and foreign countries. This reflects the FAIR Act of 1996 which permitted title I agreements to be signed with private entities. (References to ''private trade entities,'' no longer included under the legislation, have been deleted.) The proposed rule would require that, in order to participate, a private entity would need to have a legal presence in the United States.

The proposed rule would eliminate the requirement in existing § 17.7 that prospective commodity suppliers must submit information to the P.L. 480 Operations Division, FAS, including a current financial statement, to be determined eligible to participate. Any supplier eligible under the GSM–102 or GSM–103 programs could participate. Financial information on the firm and experience as an exporter are not required for eligibility under the GSM–102 and GSM–103 programs, which are fully commercial. Comments are requested as to whether the bid and performance bond requirements in the importer's IFB would be sufficient to insure performance by a supplier.

Approximately ten firms per year wish to become eligible commodity suppliers under title I. Two or three of those firms are already eligible under the GSM programs, and would have no additional reporting burden to be eligible under title I. The remaining seven or eight firms would require only about an hour to develop the information needed for eligibility under the GSM programs instead of the three hours currently estimated for title I. FAS would also save a small amount of staff time by deleting this separate eligibility requirement for title I suppliers.

The proposed rule would also require that cotton suppliers report sales to FAS, instead of to the Kansas City Commodity Office, Farm Service Agency. FAS would become responsible for price review and for vessel approval for cotton shipments, as it is now for all other commodities purchased under title I.

The proposed rule would eliminate the requirement in existing § 17.12 that suppliers report to USDA any payments made to representatives of the importer or importing country. The underlying legislation was repealed in December 1995 by the Federal Reports Elimination and Sunset Act of 1995. CCC will not finance such payments, however, except for ocean transportation brokerage commissions which do not exceed 2–½% of the freight.

The ocean transportation provisions in § 17.8(b)(2) of the proposed rule would not contain the prohibition in existing § 17.14(b)(2) against ''clarification or submission of additional information'' under competitive freight IFB's. This is not intended to reflect a substantive policy change. Only freight offers which were responsive to the terms of the IFB as of the date and time for receipt of offers could be considered, as at present. No information or clarification submitted after that date and time could be used to make the offer responsive. The prohibition against negotiation also remains in the regulations. This change would simply acknowledge that it is occasionally necessary to seek factual information after an offer has been submitted, such as the maximum tonnage which can be loaded at a certain port, given existing draft conditions and stowage factors for the commodity in question.

The proposed rule does not contain the requirement in existing § 17.18(c)(7) that a ''transshipment certification'' be placed on the commodity invoice in certain circumstances. The Maritime Administration of the U.S. Department of Transportation published a final rule on May 17, 1996 (61 FR 24895) which amended the definition of ''available'' commercial U.S.-flag service for shipments during the 1996–2000 Great Lakes shipping seasons. This change made the transshipment certification unnecessary. (Purchase authorizations for affected commodities already exempt exporters from this requirement.)

The proposed rule would not provide for the obsolete ''letter of conditional reimbursement'' procedure (existing § 17.4(h)), nor for the ''reimbursement method of financing,'' (existing § 17.16) which would no longer be necessary with direct payment to suppliers by CCC.

List of Subjects in 7 CFR Part 17

Agricultural commodities, Exports, Finance, Maritime carriers.

Accordingly, it is proposed to revise Part 17 of 7 CFR as follows:

PART 17—SALES OF AGRICULTURAL COMMODITIES MADE AVAILABLE UNDER TITLE I OF THE AGRICULTURAL TRADE DEVELOPMENT AND ASSISTANCE ACT OF 1954, AS AMENDED

Subpart A—Regulations Governing the Financing of Commercial Sales of Agricultural Commodities

Sec.

Authority: 7 U.S.C. 1701–1704, 1731–1736b, 1736f, 5676; E.O. 12220, 45 FR 44245, 3 CFR, 1980 Comp., p. 263.

Subpart A—Regulations Governing the Financing of Commercial Sales of Agricultural Commodities

§ 17.1 General.

(a) *What this subpart covers.* This subpart contains the regulations governing the financing of the sale and exportation of agricultural commodities by the Commodity Credit Corporation (CCC), through private trade channels to the maximum extent practicable, under the authority of Title I of the Agricultural Trade Development and Assistance Act of 1954, as amended (hereinafter called ''the Act'').

(b) *Agricultural commodities agreements.* (1) Under the Act, the Government of the United States enters into Agricultural Commodities Agreements with governments of foreign countries or with private entities. These agreements cover financing of the sale and exportation of agricultural commodities, including certain ocean transportation costs.

(2) Agricultural Commodities Agreements may provide that a participant will repay CCC for the financing extended by CCC either in dollars or in local currencies.

(c) *Purchase authorizations.* This subpart covers, among other things, the issuance by the General Sales Manager of purchase authorizations which authorize the participant to

(1) Purchase agricultural commodities and

(2) Procure ocean transportation therefor.

(d) *Financing.* For amounts to be financed by CCC, CCC will pay the supplier of commodity or of ocean transportation upon receipt of the documents specified in the subpart, the purchase authorization and the IFB. The cost of ocean freight or ocean freight differential will be financed by CCC only when specifically provided for in the purchase authorization.

(e) *Where information is available.* General information about operations under this subpart is available from the Director, Public Law 480 Operations Division, Foreign Agricultural Service, U.S. Department of Agriculture, Washington, D.C. 20250–1033. Information about financing operations under this subpart, including forms prescribed for use thereunder, is available from the Controller, Commodity Credit Corporation, U.S. Department of Agriculture, P.O. Box 2415, Washington, D.C. 20013–2415.

§ 17.2 Definition of terms.

Terms used in the regulations in this subpart are defined or identified as follows, subject to amplification in subsequent sections:

Affiliate and *associated company*—any legal entity which owns or controls, or is owned or controlled by, another legal entity. For a corporation, ownership of the voting stock is the controlling criterion. A legal entity is considered to own or control a second legal entity if—

(1) The legal entity owns an interest of 50 percent or more in the second legal entity, or

(2) The legal entity and one or more other legal entities, in which it owns an interest of 50 percent or more, together own an interest of 50 percent or more in the second legal entity, or

(3) The legal entity owns an interest of 50 percent or more in another legal entity which in turn owns an interest of 50 percent or more in the second legal entity.

CCC—the Commodity Credit Corporation, U.S. Department of Agriculture.

Commodity—an agricultural commodity produced in the United States, or product thereof produced in the United States.

Controller—the Controller, Commodity Credit Corporation, or the Controller's designee.

Copy—a photocopy or other type of copy of an original document showing all data shown on the original, including signature or the name of the person signing the original or, if the signature or name is not shown on the copy, a statement that the original was signed.

Delivery—the transfer to or for the account of an importer of custody and right of possession of the commodity at U.S. ports or Canadian transshipment points in accordance with the delivery terms of the contract and purchase authorization. For purposes of financing, delivery is deemed to occur as of the on-board date shown on the ocean bill of lading.

Destination country—the foreign country to which the commodity is exported.

Director—the Director, Public Law 480 Operations Division, Foreign Agricultural Service.

Expediting services—services provided to the vessel owner at the discharge port in order to facilitate the discharge and sailing of the vessel; this may include assisting with paperwork, obtaining permits and inspections, supervision and consultation.

FAS—the Foreign Agricultural Service, U.S. Department of Agriculture.

FSA—the Farm Service Agency, U.S. Department of Agriculture.

FSA Office—the office designated in the purchase authorization to administer this financing operation on behalf of CCC.

Finance—To expend CCC funds, whether or not the participant is required to repay the funds to CCC. For example, this subpart refers to CCC ''financing'' both the ocean freight differential, which the participant does not repay, and the commodity cost, which the participant does repay.

Form CCC–106—the form entitled ''Advice of Vessel Approval.''

Form CCC–329—the signed original of the form entitled ''Supplier's Certificate.''

General Sales Manager and *GSM*—the General Sales Manager, FAS, or the General Sales Manager's designee.

Importer—the person that contracts with the supplier for the importation of the commodity. The importer may be the participant or any person to which a participant has issued a subauthorization.

Importing country—any nation with which an agreement has been signed under the Act.

Invitation for bids and *IFB*—a publicly advertised request for offers.

Legal entity includes, but is not limited to, an individual (except that an individual and his or her spouse and their minor children are considered as one legal entity), partnership, association, company, corporation and trust.

Letter of credit—an irrevocable commercial letter of credit issued, confirmed, or advised by a banking institution in the United States and payable in U.S. dollars.

Local currency and *foreign currency*—interchangeable terms; the currency of the importing or destination country.

Notice of arrival—a written notice in accordance with § 17.8(g) stating that the vessel has arrived at the first port of discharge.

Ocean bill of lading—

(1) *In the case of cargo carried on a vessel other than LASH barges*: An ''on-board'' bill of lading, or a bill of lading with an ''on-board'' endorsement, which is dated and signed or initialed on behalf of the carrier, or

(2) *In the case of cargo carried in a LASH barge*:

(i) For the purpose of financing commodity price, an ''on-board'' bill of lading showing the date the commodity was loaded on board barges, which is dated and signed or initialed on behalf of the carrier, or a bill of lading or a LASH barge bill of lading with an ''on-board barge'' endorsement which is dated and signed or initialed on behalf of the carrier.

(ii) For the purpose of financing ocean freight or ocean freight differential, a bill of lading which is dated and signed or initialed on behalf of the carrier indicating that the barge containing the cargo was placed aboard the vessel named in the Form CCC–106 not later than eight running days after the last LASH barge loading date (contract layday) specified in the Form CCC–106. This may be either an ''on board'' bill of lading or a bill of lading or a LASH barge bill of lading with an ''on-board ocean vessel'' endorsement.

(3) Documentary requirements for a copy of an ''ocean bill of lading'' refer to a non-negotiable copy thereof.

Ocean freight contract—a charter party or liner booking note.

Ocean transportation—interchangeable with the term ''ocean freight''.

Ocean transportation brokerage—services provided by shipping agents related to their engagement to arrange ocean transportation and services provided by ships brokers related to their engagement to arrange employment of vessels.

Ocean transportation-related services—furnishing the following services: lightening, stevedoring, and bagging (whether these services are performed at load or discharge), and inland transportation, i.e., transportation from the discharge port to the designated inland point of entry in the destination country, if the discharge

port is not located in the destination country.

Participant—the collective term used to denote the importing country or the private entity with which an agreement has been negotiated under the Act.

Person—an individual or other legal entity.

Private entity—the nongovernmental legal entity with which an agreement has been signed under the Act. A foreign private entity must maintain a bona fide business office in the United States and have a person, principal, or agent on whom service of judicial process may be had in the United States.

Purchase authorization—Form FAS–480, ''Authorization to Purchase Agricultural Commodities,'' issued to a participant under this subpart.

Purchasing agent—any person engaged by a participant to procure agricultural commodities.

Secretary—the Secretary of Agriculture of the United States, or the Secretary's designee.

Selling agent—a representative for the supplier of the commodity, who is not employed by or otherwise connected with the importer or the participant.

Shipping agent—any person engaged by a participant to arrange ocean transportation.

Ships broker—any person engaged by a supplier of ocean transportation to arrange employment of vessels.

Supplier—any person who sells a commodity to an importer under the terms of a purchase authorization, or who sells ocean transportation to an importer or supplier of the commodity under the terms of a purchase authorization.

United States—the 50 States, the District of Columbia, and Puerto Rico.

USDA—the U.S. Department of Agriculture; includes all or any of the agencies mentioned in this section.

§ 17.3 Purchase authorizations.

(a) *Issuance.* After an agreement is signed, the GSM will issue a purchase authorization to the participant for each commodity included in the agreement.

(b) *Contents.* Each purchase authorization includes the following information:

(1) The commodity to be purchased and specifications, approximate quantity and maximum dollar amount authorized;

(2) Contracting requirements;

(3) The contracting period, during which suppliers and importers must enter into contracts; and the delivery period, during which the commodity must be delivered;

(4) The terms of delivery to the importer;

(5) Documentation required for CCC financing in addition to or in lieu of the documentation specified in § 17.9;

(6) Provisions relating to payment to CCC, if applicable;

(7) The address of the FSA office administering the financing operation on behalf of CCC;

(8) The method of financing provided under the Agricultural Commodities Agreement;

(9) Any provisions relating to financing by CCC in addition to or in lieu of those specified in this subpart;

(10) Authorization to procure ocean transportation, and provisions relating to the financing of ocean freight or ocean freight differential, as applicable;

(11) Any other provisions considered necessary by the General Sales Manager.

(c) *Applicability of this subpart.* In addition to the provisions of a particular purchase authorization, each purchase authorization, unless otherwise provided, is subject to the provisions of this subpart to the same extent as if the provisions were fully set forth in the purchase authorization.

(d) *Modification or revocation.* The General Sales Manager reserves the right at any time for any reason or cause whatsoever to supplement, modify or revoke any purchase authorization, including the termination of deliveries, if it is determined to be in the interest of the U.S. Government. CCC shall reimburse suppliers who would otherwise be entitled to be financed by CCC for costs which were incurred as a result of such action by the GSM in connection with firm sales or shipping contracts, and which were not otherwise recovered by the supplier after a reasonable effort to minimize such costs: *Provided, however,* That such reimbursement shall not be made to a supplier if the GSM determines that the GSM's action was taken because the supplier failed to comply with the requirements of the regulations in this subpart or the applicable purchase authorization; *Provided further,* That reimbursement to suppliers of ocean transportation shall not exceed the ocean freight differential when the purchase authorization provides only for financing the differential.

(e) *Subauthorizations.* The participant may issue subauthorizations to importers consistent with the terms of the applicable purchase authorization. The participant, in subauthorizing, shall specify to importers all the provisions of the applicable purchase authorization which apply to the subauthorization.

(f) *Cotton textiles.* (1) Except as provided in paragraph (f)(2) of this section, financing of textiles under this subpart is limited to cotton yarns and fabrics processed up to and including the dyed and printed state, and preshrinking. Any processing of such yarns and fabrics beyond this stage will be at the expense of the participant.

(2) Purchase authorizations may permit cotton textiles processed beyond the stage described in paragraph (f)(1) of this section to be purchased, but the maximum financing by CCC is limited to the equivalent value of the cotton yarns and fabrics described in paragraph (f)(1) of this section, contained in the textiles, plus eligible ocean transportation costs.

(3) Financing is available only for textiles manufactured entirely of U.S. cotton in the United States.

§ 17.4 Agents of the participant or importer.

(a) *General.* (1) A participant or importer is not required to use a purchasing agent or shipping agent, or employ the services of any other agent, broker, consultant, or other representative (hereafter ''agent'') in connection with arranging the purchase of agricultural commodities under title I of the Act and arranging ocean transportation for such commodities. However, if an agent is used, the participant shall submit a written nomination of the agent to the Deputy Administrator, Export Credits, along with a copy of the proposed agreement between the participant or importer and such agent. The written nomination shall also specify the period of time to be covered by the nomination. A person may not act as agent for a participant or importer unless the Deputy Administrator, Export Credits, has provided a written statement that the nomination is accepted in accordance with the provisions of this section.

(2) See § 17.6(c) regarding commissions, fees, or other compensation of any kind to agents of a participant or importer.

(3) A freight agent employed by the Agency for International Development under titles II and III of the Act is not eligible to act as an agent for the participant or importer during the period of such employment. A subcontractor of such freight agent is not eligible to act as an agent for the participant or importer during the period of its subcontract.

(b) *Affiliate defined.* For purposes of this section, the term affiliate has the meaning provided in § 17.2 and, in addition, persons will also be considered to be affiliates if any of the following conditions are met:

(1) There are any common officers or directors.

(2) There is any investment by eligible commodity suppliers, selling agents, or persons engaged in furnishing ocean transportation or ocean transportation-related services for commodities provided under any title of the Act, section 416(b) of the Agricultural Act of 1949, or the Food for Progress Act of 1985, whether or not any part of the ocean transportation is financed by the U.S. Government, or by agents of such persons, or their officers or directors, in the agent of the participant or importer.

(3) There is any investment by the agent of the participant or importer, or its officers or directors, in approved commodity suppliers; selling agents; or persons engaged in furnishing ocean transportation or ocean transportation-related services for commodities provided under any title of the Act, section 416(b) of the Agricultural Act of 1949, or the Food for Progress Act of 1985, whether or not any part of the ocean transportation is financed by the U.S. Government, or in agents of such persons. These conditions include those cases in which investment has been concealed by the utilization of any scheme or device to circumvent the purposes of this section but does not include investment in any mutual fund.

(c) *Information to be furnished.* A person nominated to act as an agent of the participant or importer, and any independent contractor that may be hired by such person to perform functions of a shipping agent, shall furnish to the Deputy Administrator, Export Credits, the following information or documentation as may be applicable:

(1) The names of all incorporators;

(2) The names and titles of all officers and directors;

(3) The names of all affiliates, including the names and titles of all officers and directors of each affiliate, and a description of the type of business in which the affiliate is engaged;

(4) The names and proportionate share interest of all stockholders;

(5) If beneficial interest in stock is held by other than the named shareholders, the names of the holders of the beneficial interest and the proportionate share of each;

(6) The amount of the subscribed capital;

(7) For USDA acceptance of a nomination covering services provided during each U.S. fiscal year (October 1—September 30), a written statement signed by such person:

(i) Certifying that, during the U.S. fiscal year covered by USDA's acceptance of the nomination, the person has not engaged in, and will not engage in, supplying commodities under any title of the Act or the Food for Progress Act of 1985 or furnishing ocean transportation or ocean transportation-related services for commodities provided under any title of the Act, section 416(b) of the Agricultural Act of 1949, or the Food for Progress Act of 1985, whether any part of the ocean transportation is financed by the U.S. Government; and that the person has not served and will not serve as an agent of firms engaged in providing such commodities, ocean transportation and ocean transportation-related services;

(ii) Certifying that, for ocean transportation brokerage services provided during the U.S. fiscal year covered by USDA's acceptance of the nomination, the person has not shared and will not share freight commissions with the participant, the importer, or any agent of the participant or the importer, whether CCC finances any part of the ocean freight. CCC will consider as sharing a commission a situation where the agent forgoes part or all of a commission and the supplier of ocean transportation pays a commission directly to the participant, the importer, or any other person on behalf of the participant or the importer; and

(iii) Undertaking that, during the U.S. fiscal year covered by USDA's acceptance of the nomination, affiliates of such person have not engaged in and will not engage in the activities or actions prohibited in this paragraph (c)(7).

(8) A certification that neither the person nor any affiliates has arranged to give or receive any payment, kickback, or illegal benefit in connection with the person's selection as agent of the participant or importer.

(d) *USDA acceptance.* (1) USDA will consider accepting the nomination of a person to act as an agent of the participant or importer when the documents required to be submitted by this section are received by the Deputy Administrator, Export Credits.

(2) USDA's acceptance of such nomination shall remain in effect for the period of time requested by the participant or such shorter period as the Deputy Administrator, Export Credits, may determine. USDA will withdraw such acceptance if the agent of the participant or importer, or any of the affiliates of such agent, violates the certifications or undertakings made pursuant to paragraphs (c) (7) and (8) of this section.

(3) A person is required to submit the information and documentation required by paragraph (c) of this section to support the person's first nomination to act as an agent of any participant or importer for each fiscal year. For subsequent nominations covering the same fiscal year, the person must provide a written certification that all the information and documentation provided earlier is still accurate and complete, or must provide the details of any changes.

(e) *Notification.* The Deputy Administrator, Export Credits shall promptly notify persons nominated as agents of the participant or importer, of the determination or of the need for further inquiry, and shall provide a written response within 30 calendar days of receipt of all the required documents. If USDA will not accept the nomination, the notification shall state the reasons therefor. The determination of the Deputy Administrator, Export Credits is effective immediately and continues in effect pending the result of any appeal to the General Sales Manager.

(f) *Non-acceptance or withdrawal.* (1) If USDA does not accept the nomination of a person, or if acceptance has been withdrawn pursuant to the provisions of this section, the person may, within 30 calendar days, present to the General Sales Manager, orally or in writing, any reasons as to why such action should not stand. Nothing in this paragraph shall be construed as to prohibit a person whose nomination has not been accepted or whose acceptance has been withdrawn by USDA from being nominated at a later time.

(2) If, in the procurement of commodities made available under title I, Public Law 480, a participant or importer uses an agent whose nomination has not been accepted in writing by the Deputy Administrator, Export Credits, USDA may withhold sales approval.

(3) If, in the shipping of commodities made available under title I, Public Law 480, a participant or importer uses an agent whose nomination has not been accepted in writing by the Deputy Administrator, Export Credits, USDA may withhold vessel approval or may deduct from the ocean freight differential to be paid, the amount of any commission to the agent in connection with the shipment.

(g) *No competitive advantage.* A shipping agent may not take any action which would give a competitive advantage to any supplier of commodities or ocean transportation. This includes, but is not limited to, providing advance notice of IFB's or amendments, or selectively enforcing IFB or contract requirements.

§ 17.5 Contracts between commodity suppliers and importers.

(a) *Commodity suppliers and selling agents.* (1) In order to participate in the Public Law 480, title I program, a prospective commodity supplier must submit to CCC the information required by 7 CFR 1493.30.

(2) If, at the time the commodity supplier reports the sale it is determined that an agent employed or engaged by a commodity supplier to obtain a contract is not a selling agent as defined in § 17.2, the sale will not be eligible for financing.

(b) *Eligibility for financing.* To be eligible for financing, commodity contracts must comply with the following requirements unless otherwise specified in the purchase authorization.

(1) Commodity contracts between suppliers and importers are considered to be conditioned on the approval by USDA of the contract price; conformance of the sale to the provisions of the purchase authorization; responsiveness of the offer to IFB terms; and compliance by the supplier and the selling agent, if any, with paragraph (a) of this section.

(2) Importers and suppliers must enter into contracts within the contracting period specified in the purchase authorization. The contracts must provide for deliveries to the importer in accordance with the delivery terms and during the delivery period specified in the purchase authorization, or any amendment or modification thereto.

(3) Contracts for a commodity, under a purchase authorization which limits delivery terms to f.o.b. or f.a.s., must be separate and apart from the contracts for ocean transportation of the commodity.

(4) The supplier's sales price may not exceed the prevailing range of export market prices as applied to the terms of sale at the time of sale, as determined by USDA. The ''time of sale'' is the date and time specified in the IFB for receipt of offers; or the date of the contract amendment if the amendment affects the sale price, as determined by USDA. The contract price may not be on a cost plus a percentage-of-cost basis.

(c) *Contracting procedures*—(1) Purchasing—general. (i) Importers must purchase commodities on the basis of IFB's.

(ii) The participant shall maintain a record of all offers received from suppliers until the expiration of three years after final payment under contracts awarded under the purchase authorization. The GSM may examine these records or request specific information in connection with the offers.

(2) *Invitations for bids.* The following conditions shall apply on all purchases of commodities on the basis of IFB's:

(i) The General Sales Manager must approve the terms of the IFB before it is issued by the importer.

(ii) The importer shall issue the IFB in the United States and shall open all offers in public in the United States at the time and place specified in the IFB.

(iii) The IFB must permit submission of offers from all suppliers who meet the requirements of this subpart.

(iv) The IFB may not preclude offers for shipment from any United States port(s) unless the purchase authorization provides for exportation only from certain ports.

(v) The IFB may not establish minimum quantities to be offered or which will be considered.

(vi) The IFB must be in compliance with the regulations, the purchase authorization, and sound commercial standards.

(3) *Contract awards.* (i) The importer shall consider only offers which are responsive to the IFB and shall make awards either on the basis of the lowest commodity price(s) offered or on the basis of lowest landed cost. However, when vessels offered under the flag of the participant, the importing country or the destination country; or vessels controlled by the participant, the importing country or the destination country are to be used, the participant must purchase commodities for shipment on such vessels only on the basis of the lowest commodity price(s) offered. This limitation may, however, be waived by the GSM:

(A) When the lowest commodity price(s) offered are in locations where vessels cannot reasonably be made available without a substantial increase in freight costs to the participant;

(B) For small quantities offered at additional loading points (in aggregate not more than 15 percent of the total tonnage offered by a vessel); or

(C) Where this limitation would conflict with the purposes of the program.

(ii) For purposes of this section, ''lowest commodity price(s)'' means the lowest commodity price(s) offered for loading onto the type of vessel (dry bulk carrier, tanker, etc.) to be utilized to carry the commodity purchased.

(iii) For purposes of this section, ''lowest landed cost'' means the combination of commodity price and ocean freight rate resulting in the lowest total cost to deliver the commodity to the importing country, considering the quantity which must be shipped on privately owned U.S.-flag commercial vessels, as determined by the Director. Lowest landed cost may be defined on either a foreign flag or U.S. flag basis. Awards may not be made on the lowest landed cost basis unless IFB's are issued for commodity and ocean freight so that all commodity and ocean freight offers are reviewed simultaneously.

(iv) Participants are encouraged to purchase commodities on the basis of lowest landed cost when U.S. flag vessels are to be used. If such commodity purchases are not made on the basis of lowest landed cost (U.S. flag), ocean freight differential payments will nonetheless be calculated on the rates of U.S. flag vessels which would represent the lowest landed cost.

(v) Announcement of awards shall be made in the United States. The importer shall promptly submit to the Director copies of all offers received with a copy of the IFB which was issued. No sale can be approved for financing until this information has been received by FAS. The decision of the GSM shall be final regarding the responsiveness of offers to IFB terms in the awarding of contracts.

(d) *Contract quantity eligible for financing.* The quantity eligible for financing in the contract between the supplier and the importer may not exceed that quantity approved by the Public Law 480 Operations Division, FAS, including any approved contract tolerance.

(e) *Contract disputes.* Contracts between suppliers and importers should stipulate the responsibility of each party for payment of any costs not eligible for financing by CCC. Questions as to payment of ineligible costs should be resolved between the contracting parties.

(f) *Contract provisions.* Each contract entered into for financing under this subpart is deemed to include all terms and conditions required by this subpart.

(g) *Export Trade Act (Webb-Pomerene Law).* A supplier who is a member of a Webb-Pomerene association and who enters into contracts with importers as a member of such an association shall so indicate in a statement on, or attached to, the copy of the supplier's detailed invoice referred to in § 17.9(c)(2).

§ 17.6 Discounts, fees, commissions and payments.

For purposes of this section, the term ''payment'' means a commission, fee or other compensation of any kind. The term ''other compensation of any kind'' includes anything given in return for any consideration, services, or benefits received or to be received.

(a) *Discounts.* If a contract provides for one or more discounts (including but not limited to trade or quantity

discounts and discounts for prompt payment) whether expressed as such or as ''commissions'' to the importer, CCC will only pay the invoice amount after the discount (supplier's contracted price less all discounts).

(b) *Selling agents.* (1) A supplier may not make a payment to a selling agent employed or engaged by the supplier to obtain a contract. This prohibition applies to any payment to a person who has acted as a selling agent to obtain a contract even though the payment may be for services performed that are not themselves services to obtain a contract.

(2) A person is deemed to act ''to obtain a contract'' if the person acts on behalf of a commodity supplier to:

(i) Influence a buyer to award a contract to the supplier;

(ii) Give the supplier a competitive advantage in relation to other potential suppliers; or

(iii) Influence CCC to approve a contract for financing under these regulations.

(3) CCC will not consider acts which are purely ministerial in nature and do not require the exercise of personal influence, judgment, or discretion (such as attending bid openings or presenting offers at bid openings), or services to implement a contract after it has been entered into by the parties (such as handling documentation problems or contract disputes), as acts to obtain a contract.

(c) *Other prohibitions.* (1) Suppliers of commodities or ocean transportation may not:

(i) Pay a commission to the participant or importer; to any agency, including an agency of the government of the importing country or the destination country; or to a corporation owned or controlled by the participant or the government of the importing country or the destination country.

(ii) Pay a commission to any affiliate of the participant, if the participant is a private entity;

(iii) Make any payment to an agent of the participant or importer, in the person's capacity as such agent, other than total ocean transportation brokerage commissions which do not exceed 2½ percent of the freight.

(iv) Pay an address commission or payment.

(2) For ocean transportation, in addition to this paragraph, see also § 17.8(j).

(3) If a payment is made in violation of this section, CCC may demand dollar refund of the entire amount financed by CCC under the contract.

§ 17.7 Notice of sale procedures.

(a) *Telephonic notice of sale.* The supplier shall, immediately upon making a firm sale, telephone a notice of sale to Public Law 480 Operations Division, FAS. A sale is considered firm when the supplier has been notified by the importer of an award, even though the contract is conditioned on approval by FAS (see § 17.5(b)(1).) If the supplier fails to furnish a notice of sale within 3 working days after the date of sale, CCC has the right to refuse to finance the sale.

(b) *Sale approval.* (1) Public Law 480 Operations Division will notify the supplier by telephone of approval of the notice of sale.

(2) The supplier will prepare Form FAS–359, ''Declaration of Sale,'' and submit it to Public Law 480 Operations Division promptly as soon as FAS has provided the CCC Registration Number to the supplier. The supplier or the supplier's authorized representative must sign the form.

(3) Each Form FAS–359 shall cover only a single sale contract. If a sale is made under two or more purchase authorizations, the supplier will prepare separate forms for each purchase authorization.

(4) If any correction is needed to the Form FAS–359, the supplier must immediately notify FAS. If a contract is amended, the supplier should present the original Form FAS–359 for payment along with a copy of the written USDA approval of the contract amendment.

(c) *Sale disapproval.* (1) Public Law 480 Operations Division, FAS, will notify the supplier by telephone when a sale is disapproved for financing. The related contract between the supplier and importer shall, for purposes of financing, be considered null and void.

(2) On receipt of a notice of disapproval, the supplier shall promptly notify the importer.

(d) *Contract delivery period.* Price approval is limited to exports made during the delivery period stated in the notice of sale or any contract amendment approved by the Public Law 480 Operations Division, FAS. If the supplier cannot complete delivery by the terminal delivery date of the contract delivery period, the supplier and the participant or importer shall submit a notice of contract amendment as provided in paragraph (e) of this section. If the supplier fails to comply, § 17.10(d) of the regulations shall apply.

(e) *Contract amendments.* (1) The supplier and the participant or importer shall each submit a written notice of each contract amendment to the Director immediately after the amendment to the contract is made. This includes not only any change in the contract delivery period or any other terms and conditions of the contract as provided in the information given in the original notice of sale or any amendment thereto, but also any change in any other terms and conditions of the contract.

(2) The notice of contract amendment must contain the following:

(i) A request that USDA approve an amendment to the specifically identified sale contract between (the participant or importer) and (the commodity supplier).

(ii) A statement of what the amendment consists of (as, extension of delivery period through (date)) and a detailed explanation of the reasons for the amendment.

(iii) A statement that the contract amendment has been agreed to by both buyer and seller.

(3) Public Law 480 Operations Division, FAS, will notify the supplier as to whether the amendment is approved or disapproved.

(4) The supplier shall furnish a copy of the USDA approval of the amendment with other documentation submitted to obtain payment.

(5) If the supplier fails to furnish notice of a contract amendment to Public Law 480 Operations Division, FAS, within 3 working days after the date of such amendment, CCC has the right to refuse to finance the sale or any portion of the sale.

(6) Any amendment must be consistent with the provisions of the purchase authorization and this subpart and must otherwise be acceptable to Public Law 480 Operations Division, FAS.

§ 17.8 Ocean transportation.

(a) *General.* (1) This section applies to the financing of ocean freight or ocean freight differential. Ocean freight will be financed by CCC only to the extent specifically provided for in the purchase authorization. The purchase authorization may provide requirements in addition to or in lieu of those specified in this section.

(2) The supplier of ocean transportation must be engaged in the business of furnishing ocean transportation from the United States and must have a person, principal or agent, on whom service of judicial process may be had in the United States.

(3) The quantity of the commodity which must be shipped on privately owned U.S.-flag commercial vessels will be determined by the Director.

(4) The supplier of ocean transportation shall release copies of the ocean bills of lading to the supplier of the commodity promptly upon completion of loading of the vessel.

(5) When CCC finances any part of the ocean freight or the ocean freight

differential, the participant must open an operable irrevocable letter of credit for the portion of the ocean freight not financed by CCC. The amount of the letter of credit shall be computed using the information provided in the Form CCC–106. The letter of credit shall provide for sight payment or acceptance of a draft, payable in U.S. dollars, on the basis of the quantities specified in the applicable ocean freight contract. If the supplier of ocean transportation accepts the commodity before receipt of an acceptable letter of credit from a bank, the supplier takes such action at its own risk. This action in itself does not affect eligibility for CCC financing.

(b) *Contracting procedures.*—(1) *Invitations for Bids (IFB's).* (i) Public freight ''Invitations for Bids'' are required in the solicitation of freight offers from all U.S. and non-U.S. flag vessels when CCC is financing any portion of the ocean freight.

(ii) For non-U.S. flag vessels when CCC is not financing any portion of the ocean freight, public freight IFB's are also required unless otherwise authorized by the Director, or unless the participant requires the use of vessels under its flag, the flag of the destination country, or other non-U.S. flag vessels under its control. Vessels considered to be under the control of the participant or the destination country include vessels under time charters, bare boat charters, consecutive voyage charters, or other contractual arrangements for the carriage of commodities which provide guaranteed access to vessels.

(iii) Prior to release to the trade, all freight IFB's must be submitted to the Director for approval. Freight IFB's must be issued by means of the Transportation News Ticker, New York, plus at least one other means of communication.

(iv) All freight IFBs must:

(A) Specify a closing time for the receipt of offers and state that late offers will not be considered;

(B) Provide that offers are required to have a canceling date no later than the last contract layday specified in the IFB;

(C) Provide the same deadline for receipt of offers from both U.S. flag vessels and non-U.S. flag vessels.

(2) *Competitive bidding.* When CCC is financing any portion of the freight, all offers shall be opened in public in the United States at the time and place specified in the IFB. Offers shall be opened prior to receipt of offers for the sale of commodities as the Director determines appropriate. Only offers which are responsive to the IFB may be considered, and no negotiation shall be permitted.

(3) *Records of offers.* Copies of all offers received must be promptly furnished to the Director, who may require the participant, or its shipping agent, to submit a written certification to the GSM that all offers received (with the times of receipt designated thereon) were transmitted to the Department. For purposes of this paragraph ''time of receipt'' shall be the time a hand-carried offer, mailed offer, or telegram was received at the designated location for presentation or, if transmitted electronically, the time the offer was received, as supported by evidence satisfactory to the Director.

(4) *Re-tenders.* The Director may permit or require a participant to refuse any and all bids, and in such case a participant may conduct a re-tender with the approval of the Director. The Director shall not approve or require freight re-tenders unless they will increase the likelihood of meeting U.S. flag cargo preference requirements, will permit the desired quantity to be shipped, will likely result in reduced CCC expenditures, or are otherwise determined to be in the best interest of the program.

(c) *Request for vessel approval.* The pertinent terms of all proposed charters and all proposed liner bookings, regardless of whether any portion of ocean freight is financed by CCC, must be submitted to the Director for review and approval before fixture of the vessel. Tentative advance vessel approvals may be obtained by telephone provided Form CCC–105, Ocean Shipment Data—Pub. L. 480 (Request for Vessel Approval), is furnished promptly confirming the information supplied by telephone. The Form CCC–105 shall be submitted in duplicate to the Director.

(d) *Advice of vessel approval.* (1) USDA will give written approval of charters and liner bookings on Form CCC–106, ''Advice of Vessel Approval.'' The Form CCC–106 will state whether CCC will finance any part of the ocean freight. For f.a.s. or f.o.b. shipments, CCC will issue a signed original of Form CCC–106 to the ocean carrier when CCC finances any part of the ocean freight. For c.& f. or c.i.f. shipments, CCC will issue Form CCC–106 to the supplier of commodity.

(2) If CCC agrees to finance any portion of the ocean freight, the participant or its agent shall forward a copy of the ocean freight contract immediately after execution to the Director for review and approval prior to issuance of Form CCC–106.

(3) CCC may also require the supplier of ocean transportation to submit copies of lightening, stevedoring, or bagging contracts for any voyage for which CCC finances ocean freight or ocean freight differential.

(e) *Special charter party provisions required when any part of ocean freight is financed by CCC.* This paragraph applies when CCC finances any part of the ocean freight for commodities booked on charter terms. In the event of any conflict between the provisions of the regulations in this subpart and the charter party or ocean bills of lading issued pursuant thereto, the provisions of the regulations in this subpart shall prevail. The charter party shall contain or, for the purpose of financing pursuant to the regulations in this subpart, be deemed to contain the following provisions:

(1) That if there is any failure on the part of the supplier of ocean transportation to perform the charter party after the vessel has tendered at the loading port, the charterer shall be entitled to incur all expenses which in the judgment of the General Sales Manager are required to enable the vessel to carry out her obligations under the charter party including, but not limited to, expenses for lifting any liens asserted against the vessel.

(2) That, notwithstanding any prior assignments of freight made by the owner or operator, the expenses authorized in paragraph (e)(1) of this section may be deducted from the freight earned under the charter party.

(3) That ocean freight is earned and that 100% thereof is payable by the charterers when the vessel and cargo arrive at the first port of discharge, subject to paragraph (e)(4) of this section, and to the further condition that if a force majeure as described in paragraph (l)(1) of this section results in the loss of part of the vessel's cargo, 100% of the ocean freight is payable on the part so lost. This provision does not relieve the carrier of the obligation to carry to other points of discharge if so required by the charter party.

(4) That if a force majeure as described in paragraph (l)(1) of this section prevents the vessel's arrival at the first port of discharge, the freight shall be payable by the charterer at the time the General Sales Manager determines that such force majeure was the cause of nonarrival.

(5) That laydays are non-reversible.

(6) That in a dispute involving any rights and obligations of CCC, including rights and obligations as successor or assignee, which cannot be settled by agreement, the dispute shall not be subject to arbitration.

(f) *Special charter party information required when any part of ocean freight is financed by CCC.* When CCC finances

any part of the ocean freight for commodities booked on charter terms, the charter party shall contain the following information:

(1) The name of each party participating in the ocean freight brokerage commission, if any, and the percentage thereof payable to each party;

(2) The name of the vessel and the name of the substitute vessel, if any.

(g) *Notice of arrival.* Each Form CCC–106 will indicate whether a notice of arrival is required. A notice of arrival, when required, must be furnished promptly by the participant or its designated agent or other source acceptable to CCC (excluding the carrier or its agent) and must include the name of the vessel, the purchase authorization number, the first port of discharge, and the date of arrival. The notice of arrival of the vessel also constitutes prima facie evidence of arrival of the cargo.

(h) *Foreign flag vessels.* The cost of ocean transportation will be financed by CCC on non-U.S. flag vessels only when, and to the extent, specifically provided in the applicable purchase authorization.

(i) *U.S.-flag vessels.* When a commodity is required to be shipped on a privately owned U.S.-flag commercial vessel, Form CCC–106 will set forth:

(1) The rate of the ocean freight differential, if any, which the Director determines to exist between the prevailing foreign-flag vessel rate and the U.S.-flag vessel rate; and

(2) The approximate tonnage for which CCC will authorize reimbursement of ocean freight or ocean freight differential, as appropriate.

(j) *Items not eligible for financing by CCC.* The following costs will not be financed by CCC, either separately or as part of the commodity contract price:

(1) Loading, trimming, and other related shipping expenses unless included in the ocean freight rate;

(2) Discharge costs unless included in the ocean freight rate;

(3) The cost of ''dead freight'';

(4) Cargo dues and taxes assessed by the importing or recipient country;

(5) Surcharges assessed by steamship conferences or carriers, unless specifically authorized by the Director;

(6) General average contributions;

(7) Stevedoring overtime and vessel crew overtime;

(8) Ship's disbursements;

(9) Ocean transportation brokerage commissions in excess of 2–1/2 percent of the freight;

(10) Any payments prohibited in § 17.6(b) and (c); and

(11) Detention.

(k) *General financing provisions.* When any part of ocean freight will be financed either separately or as part of the commodity contract price, the following shall apply:

(1) Ocean freight contracts must show the ocean freight rate from one loading port to one discharge port, and may provide for an increase in rate for an additional port of loading or discharge, or other option. CCC, however, will finance initially the lowest such rate or OFD, as appropriate. Increased amounts due because of the exercise of such option will be financed only after receipt of an ocean bill of lading or other evidence showing that the option was exercised.

(2) In the case of transshipment to a foreign flag vessel, CCC will finance the ocean freight or OFD, as appropriate, only to the point of transshipment, at a rate determined by the GSM, and CCC will not finance any part of the ocean freight beyond the point of transshipment unless specifically approved by the GSM. If the commodity was transported from a U.S. port and was transshipped at another U.S. port, CCC will not finance, without prior approval of the GSM, any part of the ocean freight incurred before transshipment.

(3) The ocean freight rate eligible for CCC financing and the rate used for the U.S.—flag vessel in calculating ocean freight differential shall not exceed the following rates for the category of the vessel concerned:

(i) For commodities covered by published tariff rates—the published conference contract rate;

(ii) For other commodities—the market rate prevailing at the time of request for approval as determined by the Director, but in any event not in excess of rates charged other shippers (irrespective of booking dates) for like commodities on the voyage concerned.

(4) Payment will be made for ocean freight or OFD, as appropriate, from loading points to discharge points at rates approved by the Director on Form CCC–106 in conformity with paragraph (k)(3) of this section.

(5) Freight for a vessel designated on Form CCC–106 as a U.S. flag vessel shall not be eligible for financing unless such vessel complies with the provisions of Public Law 87–266.

(6) Ocean freight contracts must specify that the participant shall be liable for detention of the vessel for loading delays attributable solely to the decision of the supplier of ocean transportation not to commence loading because of the failure of the participant to establish an ocean freight letter of credit in accordance with paragraph (a)(4) of this section. However, ocean freight contracts may not contain a specified detention rate. The ocean transportation supplier shall be entitled to reimbursement for detention costs for all time so lost, for each calendar day or any part of the calendar day, including Saturdays, Sundays and holidays. The period of such delay shall not commence earlier than upon presentation of the vessel at the designated loading port within the laydays specified in the ocean freight contract, and upon notification of the vessel's readiness to load in accordance with the terms of the applicable ocean freight contract. The period of such delay shall end at the time that operable irrevocable letters of credit have been established for the applicable ocean freight or the time the vessel begins loading, whichever is earlier. Time calculated as detention shall not count as laytime. Reimbursement for such detention shall be payable no later than upon the vessel's arrival at the first port of discharge.

(l) *Force majeure.* (1) The GSM will waive the requirement for the notice of arrival required by Form CCC–106 by a written notice to the supplier of ocean transportation on the receipt of evidence satisfactory to the General Sales Manager that the vessel is lost or unable to proceed to destination after completion of loading as a result of one or more of the following causes: Damage caused by perils of the sea or other waters; collisions; wrecks; stranding without the fault of the carrier; jettison; fire from any cause; Act of God; public enemies or pirates; arrest or restraint of princes, rulers or peoples without the fault of the supplier of ocean transportation; wars; public disorders; captures; or detention by public authority in the interest of public safety. The supplier may substitute such waiver for the notice of arrival.

(2) The determination of a force majeure by the GSM shall not relieve the participant from its obligation under the Agricultural Commodities Agreement to pay CCC, when due, the dollar amount of ocean freight, plus interest (exclusive of ocean freight differential), financed by CCC.

(m) *Demurrage/despatch.* CCC will not finance demurrage and CCC will not share in despatch earnings. Owners and commodity suppliers will settle laytime accounts at load port(s) and owners and charterers will settle laytime accounts at discharge port(s). Under no circumstances shall CCC be responsible for resolving disputes involving calculation of laytime or the payment of demurrage or despatch.

(n) *Ocean freight included in the commodity contract price.* For cost and freight or c.i.f. contracts the ocean

freight, or the ocean freight differential, as appropriate, will be financed only to the extent specifically provided in the applicable purchase authorization.

(o) *Separate freight contracts.* Contracts for ocean transportation, under a purchase authorization which limits delivery terms to f.o.b. or f.a.s., must be separate and apart from the contracts for the commodity.

§ 17.9 CCC payment to suppliers.

(a) *General.* (1) The supplier shall request payment from CCC for the amount of the commodity price or the ocean freight or ocean freight differential to be financed by CCC.

(2) The supplier shall support such a request for payment by presenting to CCC the documents required by this section, the purchase authorization, and the IFB, unless such documents were previously submitted to CCC. Such documents, however, need not be submitted when and to the extent that the Controller determines that the intended purpose of a document is served by documents otherwise available to or under the control of CCC or by alternate documents specified in such determination.

(3) CCC will examine each document with reasonable care to ascertain that it appears on its face to be in accord with documentary requirements. When CCC has determined that all required documents have been submitted and that the documents are acceptable, CCC will pay the supplier for the commodity price or the ocean freight or ocean freight differential to be financed by CCC which is supported by the documents.

(b) *General documentation requirements.* The supplier must put the appropriate purchase authorization number on all required documents which are prepared under the supplier's control, and should arrange for the appropriate purchase authorization number to be put on all other required documents at the time of their preparation.

(c) *Documents required for payment—commodity.* The general provisions relating to required documents are as follows. Additional requirements for payment to commodity suppliers for c.& f. or c.i.f. sales are contained in paragraph (c)(8) of this section.

(1) *Supplier's certificate.* A signed original of Form CCC–329 ''Supplier's Certificate'' from the commodity supplier covering the net invoice price for the commodity.

(2) *Supplier's detailed invoice.* Two copies of the supplier's detailed invoice showing quantity, description, contracted price, net total invoice price expressed in dollars, the amount for which financing is requested from CCC, the amount not eligible for financing by CCC, and basis of delivery of the commodity (e.g., f.o.b. vessel). In arriving at the net invoice price there shall be deducted:

(i) All discounts from the supplier's contracted price through payments, credits, or other allowances made or to be made to the importer, the importer's agent or consignee;

(ii) All purchasing agents' commissions;

(iii) All other amounts not eligible for financing.

(3) *Additional payment.* A request for an additional payment submitted for a transaction for which all or part of the required documents have been previously submitted to CCC shall be supported by a Form CCC–329 ''Supplier's Certificate'' and the supplier's detailed invoice, covering the additional amount requested. The supplier's invoice must show the date, serial number and the amount of the original invoice and the basis for the additional amount claimed.

(4) *Weight certificate.* The weight certificate shall be issued by or on authority of a State or other governmental weighing department, Chamber of Commerce, Board of Trade, Grain Exchange, or other independent organization or firm providing public weighing services. Such organization or firm must have

(i) Qualified, impartial, paid employees who are stationed at the port facility or, if authorized under the applicable purchase authorization, other facility where weights customarily are determined, one of whom performed the weighing covered by the certificate, or

(ii) Qualified, independent, impartial, supervised, weighmasters stationed at the port facility or, if authorized under the applicable purchase authorization, other facility where weights are customarily determined, one of whom supervised the employee of such a facility in the performance of the weighing covered by the certificate.

(5) *Federal appeal inspection certificate.* A Federal appeal inspection certificate, when included in the documents presented for payment, shall supersede any other inspection certificate required by this subpart, the applicable purchase authorization, the IFB or the contract.

(6) *Form CCC–359.* (i) Form FAS–359, ''Declaration of Sale,'' signed for the GSM, is the written document by which USDA notified the supplier that the sale was approved for financing. The supplier shall submit Form FAS–359 to CCC with the documents covering the first transaction under the contract. The unit price shown on the supplier's invoice must not exceed the approved unit price shown on the Form FAS–359.

(ii) For subsequent transactions under the same contract, the supplier shall certify on the CCC copy of the detailed invoice as follows:

I hereby certify that the applicable Form FAS–359 was submitted to CCC with documents covering Invoice No. _____ dated _____ for $_____.

(7) *Bill of lading.* Four copies of the ocean bill of lading.

(8) *C.&.f. or c.i.f. sales.* In addition to the above, the following requirements apply for c.& f. or c.i.f. sales:

(i) Signed original of Form CCC–106.

(ii) The supplier's detailed invoice shall show a computation of the dollar amount of ocean freight differential, whenever the Form CCC–106 provides for an ocean freight rate differential on a cost and freight or c.i.f. sale and authorizes financing of any portion of ocean freight by CCC. In arriving at the net invoice price the supplier shall deduct the ocean freight, or portion thereof which is not being financed by CCC.

(iii) One nonnegotiable copy of the insurance certificate or policy where the cost of insurance is included in the price of the commodity to be financed by CCC.

(iv) A request for an additional payment shall also include a statement signed by the ship's master or owner (or agent of either of them) showing exercise of the higher-rated option, if the payment is stated to be due because of the exercise of a higher-rated option provided in an ocean freight contract.

(d) *Documents required for payment—ocean freight financed separately from commodity price.*

(1) *Supplier's certificate.* A signed original of Form CCC–329, ''Supplier's Certificate'', to be executed by the carrier or its agent, covering the dollar cost of ocean freight or ocean freight differential.

(2) *Ocean bill of lading.* One copy of the ocean bill of lading and, if required by the related Form CCC–106, a notice of arrival at the first port of discharge of the vessel named in the Form CCC–106. In lieu of a notice of arrival the carrier may present a waiver of the notice of arrival signed by the GSM or Controller.

(3) *Invoice.* One copy of the carrier's invoice which shows the total freight costs, the amount not eligible for financing by CCC, and the amount for which payment is requested from CCC. If the invoice relates to a U.S.-flag

vessel, such invoice shall contain the following typed or stamped certification, executed by the supplier:

The undersigned hereby certifies that the vessel named herein and for which ocean freight is claimed, qualifies as a privately owned U.S.-flag commercial vessel within the requirements of Pub. L. 87–266 and is an eligible U.S.-flag vessel for the purposes of Pub. L. 664, 83rd Congress.

(4) *Form CCC–106.* Signed original of Form CCC–106.

(5) *Ocean freight contract.* One copy of the ocean freight contract.

(6) *Higher rated option.* A request for payment of any amounts claimed because of the exercise of a higher rated option following payment of a lower rated option pursuant to § 17.8(k)(1) shall be supported by the following documents:

(i) One copy of the carrier's invoice as described in paragraph (d)(3) of this section except for the certification required therein.

(ii) The Form CCC–329, Supplier's Certificate, for the balance claimed.

(iii) A statement signed by the ship's master, owner, or owner's agent, and signed laytime statements or other written concurrence of charterer or the charterer's agent showing the exercise of the higher rated option.

(e) *Payment of freight by CCC prior to the vessel's arrival at the discharge port.*

(1) Upon request by the supplier, CCC may pay the ocean freight or ocean freight differential to be financed by CCC before the vessel arrives at the first port of discharge if the supplier furnishes CCC financial coverage in the form of an acceptable letter of credit from a U.S. bank.

(2) The amount of security required by CCC under paragraph (e)(1) of this section may be computed by multiplying the ocean freight rate or ocean freight differential rate financed by CCC as shown on the related Form CCC–106 times either—

(i) The tonnage shown on the related bill of lading, if the bill of lading is furnished to CCC; or

(ii) The tonnage stated in the ocean freight contract (without tolerance).

(3) On receipt of an acceptable letter of credit, the Controller will issue a waiver of the notice of arrival which is required under paragraph (d)(2) of this section.

(f) *Advice of amount financed.* CCC will forward advice of payment to the participant.

§ 17.10 Refunds and insurance.

(a) *Participant—failure to comply.* The participant shall pay in U.S. dollars promptly to CCC on demand by the General Sales Manager the entire amount financed by CCC (or such lesser amount as the GSM may demand) whenever the GSM determines that the participant has failed to comply with any agreement or commitment made by the participant in connection with the transaction financed or with the applicable Agricultural Commodities Agreement between the U.S. and the participant.

(b) *Adjustment refunds.* All claims by importers for adjustment refunds arising out of terms of the contract or out of the normal customs of the trade, including arbitration and appeal awards, allowances, and claims for overpayment of ocean transportation, if such refunds relate to amounts financed by CCC, shall be settled by payment in U.S. dollars and such payment shall be remitted by the supplier to CCC. The remittance shall be identified with the date and amount of the original payment and the applicable purchase authorization number.

(c) *Insurance on c.i.f. sales.* The provisions of this paragraph apply only to transactions under purchase authorizations that specifically authorize c.i.f. sales in which the cost of insurance is included in the net c.i.f. invoice price of the commodity financed. When the supplier furnishes insurance in favor of or for the account of the importer, the policies or certificates of insurance shall include a loss payable clause which provides that all claims shall be paid in U.S. dollars to the Controller. Such payments shall be accompanied by advice of the purchase authorization number, the names and addresses of the supplier and importer, the nature of the claim, the quantity of the commodity involved in the claim, the date of shipment, the bill of lading number, and the name of the vessel. CCC will credit the account of the participant or will refund local currency in accordance with paragraph (e) of this section.

(d) *Refund of ineligible amounts.* If a sale has been financed and CCC determines that the sales price exceeds the price permissible under § 17.5(b)(4), or that the sale is otherwise ineligible for financing, in whole or in part, the supplier shall refund in dollars such excess price or ineligible amount to CCC promptly on demand. If not promptly refunded, such amount may be set off by CCC against monies it owes to the supplier. The making of any such refund to CCC, or any such setoff by CCC shall not prejudice the right of the supplier to challenge such determination in a court action brought against CCC for recovery of the amount refunded or set off.

(e) *Refund of local currency or reduction of amount due.* Immediately after receipt by CCC of U.S. dollar payment from suppliers or from or for the account of the participant under this section, CCC will provide for payment to the participant of the local currency equivalent of dollars received, if such local currency has been deposited for the particular transaction or will credit the participant's account as follows:

(1) For payments under this section, except paragraph (a), the local currency refunded will be at the exchange rate agreed to by the Government of the United States and the participant in effect at the time the local currency is paid to or for the account of the importer except that if there has been a change in the exchange system or structure of the importing country or the destination country, such payment shall be made at the agreed exchange rate which was in effect on the date of dollar disbursement for the transaction financed, and except further that local currency shall not be paid when the dollars are to be reauthorized for replacement of the commodity.

(2) For payment under paragraph (a) of this section, the local currency refunded will be at the agreed exchange rate in effect on the date of the dollar disbursement for the transaction financed: *Provided*, that local currency will not be refunded to the extent that deposits of such currency have been made available to the participant on a grant basis.

(3) For refunds received by CCC under long-term credit agreements the participant's account shall be credited with the dollar amount refunded or otherwise recovered, and the participant notified accordingly.

§ 17.11 Recordkeeping and access to records.

Suppliers and agents of the participant or importer shall keep accurate books, records and accounts with respect to all contracts entered into hereunder, including those pertaining to ocean transportation-related services and records of all payments by suppliers to representatives of the importer or participant, if CCC finances any part of the ocean freight. Suppliers and agents shall permit authorized representatives of the U.S. Government to have access to their premises during regular hours to inspect, examine, audit and make copies of such books, records and accounts. Suppliers and agents shall retain such records until the expiration of three years after final payment under such contracts.

Signed at Washington, D.C. on September 13, 1996.

Christopher E. Goldthwait,

General Sales Manager, Foreign Agricultural Service and Vice-President, Commodity Credit Corporation.

[FR Doc. 97–1736 Filed 1–24–97; 8:45 am]

BILLING CODE 3410–10–P

Animal and Plant Health Inspection Service

7 CFR Part 354

[Docket No. 96–038–1]

RIN 0579–AA81

User Fees; Agricultural Quarantine and Inspection Services

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: We are proposing to amend the user fee regulations by adjusting the fees charged for certain agricultural quarantine and inspection services we provide in connection with certain commercial vessels, commercial trucks, commercial railroad cars, commercial aircraft, and international airline passengers arriving at ports in the customs territory of the United States. We are proposing to set user fees in advance for these services for fiscal years 1997 through 2002. We have determined that the fees must be adjusted to reflect the anticipated actual cost of providing these services through FY 2002.

DATES: Consideration will be given only to comments received on or before March 28, 1997.

ADDRESSES: Please send an original and three copies of your comments to Docket No. 96–038–1, Regulatory Analysis and Development, PPD, APHIS, suite 3CO3, 4700 River Road Unit 118, Riverdale, MD 20737–1238. Please state that your comments refer to Docket No. 96–038–1. Comments received may be inspected at USDA, room 1141, South Building, 14th Street and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: For information concerning program Operations, contact Mr. Jim Smith, Operations Officer, Program Support, PPQ, APHIS, 4700 River Road Unit 60, Riverdale, MD 20737–1236, (301) 734–8295. For information concerning rate development, contact Ms. Donna Ford, PPQ User Fees Section Head, FSSB, BAD, APHIS, 4700 River Road Unit 54, Riverdale, MD 20737–1232, (301) 734–5901.

SUPPLEMENTARY INFORMATION:

Background

The regulations in 7 CFR 354.3 (referred to below as the ''regulations'') contain provisions for the collection of user fees for certain agricultural quarantine and inspection (AQI) services provided by the Animal and Plant Health Inspection Service (APHIS). In this docket, we are proposing to amend the user fees for servicing certain commercial vessels, commercial trucks, commercial railroad cars, commercial aircraft, and international airline passengers arriving at ports in the customs territory of the United States from points outside the United States. (The customs territory of the United States is defined in the regulations as the 50 States, the District of Columbia, and Puerto Rico.)

These user fees are authorized by section 2509(a) of the Food, Agriculture, Conservation, and Trade Act of 1990 (21 U.S.C. 136a). This statute, known as the Farm Bill, was amended by section 504 of the Federal Agriculture Improvement and Reform Act of 1996 (Pub. L. 104–127), on April 4, 1996.

As amended, the 1990 Farm Bill provides that APHIS may prescribe and collect fees sufficient to cover the cost of providing AQI services in connection with the arrival, at a port in the customs territory of the United States, of commercial vessels, commercial trucks, commercial railroad cars, commercial aircraft, and international airline passengers. The Farm Bill also provides that APHIS may prescribe and collect fees sufficient to cover the cost of providing preclearance or preinspection at a site outside the customs territory of the United States to such passengers and vehicles. The Farm Bill further states that the fees should be sufficient to cover the cost of administering the fee program, and sufficient to maintain a reasonable balance in the Agricultural Quarantine Inspection User Fee Account (discussed below). In addition to user fees, the Farm Bill, as amended, authorizes APHIS to assess late payment penalties and interest charges if a person fails to pay a fee when due. The Farm Bill, as amended, establishes a no-year fund, known as the ''Agricultural Quarantine Inspection User Fee Account'' (Account), in the Treasury of the United States. All fees, late payment penalties, and interest charges collected by APHIS through fiscal year 2002 are to be deposited in the Account. For each fiscal year 1997 through 2002, funds in the Account are available to APHIS, until expended, to cover the costs of providing AQI services and administering the AQI program.

For each of fiscal years 1997 through 2002, fees collected in excess of $100 million may be used to cover the costs of providing AQI services and are automatically available.

This is a major change from the situation under our previous authority. Under our previous authority, reimbursement was controlled by spending limitations imposed through the annual congressional budget appropriations process. Since this spending authority was determined each year, it was not a dependable vehicle for funding long-term needs such as permanent personnel. This made it extremely difficult to keep pace with workload demands and be able to respond quickly to emergencies and unanticipated industry expansion.

Under the Farm Bill, as amended, we may spend all AQI user fees we collect in excess of $100 million for the next 5 years, as long as we spend the money only to provide AQI services. Any money we do not spend must remain in the Account. After FY 2002, any unobligated balance in the Account and any other amounts collected but not disbursed will be credited to APHIS for future AQI activities.

We anticipate that this authority will have a major impact on the way APHIS administers its AQI user fees. Costs to provide services supported by user fees each year since fees were instituted in 1991 are shown in the following table. The cost of the AQI program exceeded $100 million in FY 1995, and is projected to exceed $100 million in FY 1996.

COSTS TO RUN THE AQI PROGRAM

FY 1991 ...	Appropriated funds for entire fiscal year (user fees collected were used to capitalize the AQI User Fee Account).
FY 1992 ...	$ 85,922,000.00.
FY 1993 ...	83,362,000.00.
FY 1994 ...	98,257,160.00.
FY 1995 ...	105,907,999.00.
FY 1996 ...	127,027,001.00 (projected).

Since FY 1992, APHIS has received no directly appropriated funds to provide AQI services. Although the Farm Bill, as amended, speaks of ''appropriations,'' the term does not mean money out of the general treasury to run the program, but only the dollar amount of user fees and other charges collected by APHIS that the Agency may spend on the AQI services.

We have always based our user fees on the actual costs to provide a service during the fiscal year. This means that

we did not begin calculating user fees for one fiscal year until the prior fiscal year ended. Further, our user fees are published in the Code of Federal Regulations. The process of amending the regulations does take time. The result of this process is that our user fees lag behind the level of current costs.

Our ability to provide AQI services is completely dependent on user fees. It is therefore extremely important that the user fees we set accurately reflect the actual cost of providing services at the time the services are provided. If our user fees do not accurately reflect costs, and we do not collect enough in fees and related charges to cover costs, we may be forced to curtail services. This could be very damaging to our customers and to international trade.

We are therefore proposing to set user fees in advance for AQI services for each fiscal year 1997 through 2002. This would help ensure that we fully recover the actual costs of providing services and that we can continue to provide at least the same level of service we now provide. In addition, setting user fees in advance would give our customers prior notice of fee changes. This would provide our customers with adequate time to make business plans, reprogram computers, and otherwise prepare for changing user fees. In the past, we have implemented new fees within 1 month of publishing a final notice. Users of our services have commented that better notification of fee changes would enable them to make better future business plans. We also plan to publish a notice in the Federal Register prior to the beginning of each fiscal year to remind or notify the public of the user fees for that particular fiscal year.

We not only intend to monitor our fees throughout each year, but we intend to look closely at adjustments to fees that may be needed in future years. If we determine that any fees are too high and are contributing to unreasonably high reserve levels, we will publish lower fees in the Federal Register and make them effective as quickly as possible. If it becomes necessary to increase any fees because reserve levels are being drawn too low, we will publish, for public comment, proposed fee increases in the Federal Register.

Calculation of User Fees

To calculate the proposed user fees, we projected the direct costs of providing AQI services in FYs 1997 through 2002 for each category of service: commercial vessels, commercial trucks, commercial railroad cars, commercial aircraft, and international airline passengers. The cost of providing these services in prior fiscal years served as a basis for calculating our projected costs.

In FY 1992, APHIS established accounting procedures to segregate AQI user fee program costs. We published a detailed description of these procedures in the Federal Register on December 31, 1992 (57 FR 62469–62471), as part of a document (Docket No. 92–148–1) amending some of our user fees.

As part of our accounting procedures, we established distinct accounting codes to record costs that can be directly related to each inspection activity. At the State level and below, the following costs are direct-charged to the AQI User Fee Account: salaries and benefits for inspectors and canine officers, supervisors (such as officers-in-charge) and clerical staff; equipment used only in connection with services subject to user fees; contracts; and large supply items such as x-ray equipment or uniforms.

Other costs that cannot be directly charged to individual accounts are charged to ''distributable'' accounts established at the State level. The following types of costs are charged to distributable accounts: Utilities, rent, telephone, vehicles, office supplies, etc. The costs in these distributable accounts are prorated (or distributed) among all the activities that benefit from the expense, based on the ratio of the costs that are directly charged to each activity divided by the total costs directly charged to each account at the field level. For example, if a State office performs work on domestic programs, AQI user fee programs, and AQI appropriated programs, the costs are distributed among the programs, based on the percentage of the direct costs for that activity at the field level that is charged to that activity. Costs incurred at the regional, headquarters program staff, and agency-level support offices are also prorated to the separate AQI activities based on the percentage of the costs that were directly charged to each activity at the field level, as discussed above.

Using these accounting procedures, we calculated the total cost of providing AQI services in each past fiscal year by determining the amounts in each direct-charge account, then adding the pro rata share of the distributable accounts maintained at the State, regional, headquarters, and agency levels.

We then projected total costs to provide each category of service during each future fiscal year. Each projection included the costs of program delivery, which are incurred at the State level and below. Also included was a pro rata share of the program direction and support costs, as explained above, which include items at the regional and headquarters program staff levels. Finally, each projection included a pro rata share of agency-level support costs, as discussed above, which includes activities that support the entire agency, such as recruitment and development, legislative and public affairs, regulations development, regulatory enforcement, budget and accounting services, and payroll and purchasing services. Costs for billing and collection services, legal counsel, and rate development services that are directly related to user fee activities are directly added to the user fee activities they support and are not included in the proration of agency-level costs.

Development of Estimated Spending Amounts

The estimated spending amounts for FYs 1997 through 2002 are based on the FY 1996 program level expenditures of $106,188,000. The annual projections allow for potential promotions for PPQ Officers, plus annualized pay cost for FY 1996 new hires (217 new hires), plus estimated pay costs of 3.0% for FY 1997 and 3.1% annually for FYs 1998 through 2002, plus 30 new hires each year, plus cumulative new hire costs for FYs 1998 through 2002. We hired additional personnel in FY 1996; we anticipate additional new hiring in future years. This is because of projected increases in the number of conveyances and passengers subject to inspection. Our annual projected spending amount also includes the costs of additional preclearance activities in foreign locations (Bermuda, Bahamas, etc.), plus an allocation for agency support and departmental charges. In addition, in FYs 1997 and 1998, a one-time investment of $3.175 million has been added for the complete national implementation of the Customs Service's Automated Cargo System (ACS) at all international ports of entry. While such an investment was planned for FY 1996, it was not accomplished. As a result, the FY 1997 spending estimate was developed as follows:

FY 1996 Base	$106,188,000
Potential Promotions	1,500,000
Annualized Pay Cost—FY 1996 New Hires	4,400,000
Est. Pay Costs @ 3%	2,639,000
Additional 30 New Hire	1,500,000
International Preclearance	923,000
ACS Implementation	3,175,000
Subtotal	120,325,000
Agency Support @ 7.48%	10,027,000

Departmental Charges @ 2.8%	3,756,000
FY 1997 Total	$134,108,000

A similar procedure was used to project the annual costs and the following table indicates the estimated spending amounts for FY 1997–2002.

Projected AQI user fee spending (in thousands)	Increase from previous fiscal year
FY 1997—$134,108	5.6 percent.
FY 1998—139,299	3.9 percent.
FY 1999—141,101	1.3 percent.
FY 2000—146,621	3.9 percent.
FY 2001—152,314	3.9 percent.
FY 2002—158,184	3.9 percent.

Volumes

We estimated the annual number of users, in each category of service, that would be subject to inspection. The estimates were based on our annual rates of increased activity for each service category shown in our FY 1992 through FY 1995 collection history. In our commercial aircraft, commercial vessel, and commercial truck service categories, we used the average volume percentage change between FY 1994 and 1995 for all volume amounts. In our international air passenger and commercial truck decal service categories, we found that the volume continued to increase each year, but at a decreasing rate. Using the international air passenger volumes listed below, the estimated volume percentage increases were calculated in the following manner: (1) First, the volume percentage decline between FY 1994 and FY 1995 was determined by subtracting the volume percentage increase for FY 1994 (4.81%) from the volume percentage increase for FY 1995 (3.66%), yielding a negative 1.15%; (2) this figure was then divided by the volume percentage increase for FY 1994 (4.81%), which yields the volume percentage decline between FY 1994 and FY 1995 (i.e., -0.2391); (3) the volume percentage decline (-0.2391) was then multiplied by the volume percentage increase for FY 1995 (3.66%), yielding a negative 0.87505; (4) finally, this result was added to the volume percentage increase for FY 1995, yielding a projected volume percentage increase of 2.78% for FY 1996. This process was repeated to find growth for FY 1997–20020.

Fiscal year	Volume	Percent change
1992	35,211,595	
1993	39,462,243	12.07
1994	41,361,521	4.81
1995	42,874,898	3.66

In our loaded railroad car service category, we determined that the volume increase from FY 1994 to FY 1995 (74,006 to 102,258) was a result of NAFTA and that future increases above the FY 1995 level will be minimal. Therefore, we are projecting a modest 2 percent increase each year. These rates of increase were then used to project activity volumes for each category of services for FY 1996 and beyond as shown in the following table.

Service Category	Actual 1995 volume	Estimated 1996 volume	Estimated 1997 volume	Estimated 1998 volume	Estimated 1999 volume	Estimated 2000 volume	Estimated 2001 volume	Estimated 2002 volume
Commercial Vessel	48,131	49,051	49,989	50,945	51,919	52,912	53,924	54,955
(Increase over prior year)		(1.91%)	(1.91%)	(1.91%)	(1.91%)	(1.91%)	(1.91%)	(1.91%)
Commercial Trucks	612,743	618,776	624,868	631,020	637,233	643,507	649,843	656,241
(Increase over prior year)		(0.98%)	(0.98%)	(0.98%)	(0.98%)	(0.98%)	(0.98%)	(0.98%)
Commercial Trucks—Decals	14,332	15,054	15,656	16,153	16,559	16,890	17,157	17,373
(Increase over prior year)		(5.04%)	(4.00%)	(3.17%)	(2.52%)	(2.00%)	(1.58%)	(1.26%)
Loaded Railroad Cars	102,258	104,303	106,389	108,517	110,687	112,901	115,159	117,462
(Increase over prior year)		(2.00%)	(2.00%)	(2.00%)	(2.00%)	(2.00%)	(2.00%)	(2.00%)
Commercial Aircraft	346,624	354,837	363,245	371,852	380,663	389,683	398,917	408,369
(Increase over prior year)		(2.37%)	(2.37%)	(2.37%)	(2.37%)	(2.37%)	(2.37%)	(2.37%)
Airline Passengers	42,874,898	44,068,934	45,002,791	45,728,430	46,289,479	46,721,624	47,053,518	47,307,853
(Increase over prior year)		(2.78%)	(2.12%)	(1.61%)	(1.23%)	(0.93%)	(0.71%)	(0.54%)

Fee Adjustments and Rounding of Fees

In calculating the adjusted user fees, we divided the sum of the costs of providing each service by the projected number of users subject to inspection, thereby arriving at ''raw'' fees. We then rounded the raw fees. All raw fees were rounded up, rather than down, to ensure that we collect enough revenue to cover the costs of providing services and enough revenue to maintain a reasonable reserve. The individual fees no longer contain a reserve component. At the end of FY 1996, the AQI account is expected to have $ 45.4 million in reserve, about 36 percent of annual operating costs. Any excess collections due to rounding would be added to the reserve balance for each individual fee category. At the end of FY 2002, the AQI account is projected to retain $ 39.8 million in reserves, about 25 percent of the projected level of operating costs. If an increase in volume results in additional revenue from user fees, this revenue would not necessarily increase the reserve because the additional money would be used to service the increased volume. We rounded all user fees up to the nearest quarter, except for the international airline passenger user fee. Given the sheer volume of passengers, if we rounded up to the nearest quarter we would recover far more than is necessary. Therefore, we rounded the passenger user fee up to the nearest nickel.

AQI activity	Est. total costs	Projected volume	Raw fee	Rounded fee	Projected revenue
PROPOSED AQI USER FEE RATES—FY 1997					
Commercial Vessel	$22,335,718	49,989	$446.81	$447.00	$22,345,083
Commercial Trucks[1]	3,476,174	937,988	3.71	3.75	2,969,495
Loaded Railroad Cars	674,482	106,389	6.34	6.50	691,529
Commercial Aircraft	21,466,674	363,245	59.10	59.25	21,522,266
Airline Passengers	86,154,952	45,002,791	1.91	1.95	87,755,442
Total	134,108,000	.....	.....	.....	135,283,815
PROPOSED AQI USER FEE RATES—FY 1998					
Commercial Vessel	23,144,561	50,945	454.30	454.50	23,154,503
Commercial Trucks[1]	3,610,728	954,080	3.78	4.00	3,816,320
Loaded Railroad Cars	700,590	108,517	6.46	6.50	705,361
Commercial Aircraft	22,186,158	371,852	59.66	59.75	22,218,157
Airline Passengers	89,656,963	45,728,430	1.96	2.00	91,456,860
Total	139,299,000	.....	.....	.....	141,351,201
PROPOSED AQI USER FEE RATES—FY 1999					
Commercial Vessel	23,585,032	51,919	454.27	454.50	23,597,186
Commercial Trucks[2]	3,657,338	968,413	3.78	4.00	3,873,652
Loaded Railroad Cars	709,738	110,687	6.41	6.50	719,466
Commercial Aircraft	22,727,138	380,663	59.70	59.75	22,744,614
Airline Passengers	90,421,754	46,289,479	1.96	2.00	92,578,958
Total	141,101,000	.....	.....	.....	143,513,876
PROPOSED AQI USER FEE RATES—FY 2000					
Commercial Vessel	24,429,991	52,912	461.71	461.75	24,432,116
Commercial Trucks[2]	3,800,416	981,307	3.87	4.00	3,925,228
Loaded Railroad Cars	737,504	112,901	6.53	6.75	762,082
Commercial Aircraft	23,469,623	389,683	60.23	60.25	23,478,401
Airline Passengers	94,183,466	46,721,624	2.02	2.05	95,779,329
Total	146,621,000	.....	.....	.....	148,377,156
PROPOSED AQI USER FEE RATES—FY 2001					
Commercial Vessel	25,405,975	53,924	471.14	471.25	25,411,685
Commercial Trucks[3]	3,944,933	992,983	3.97	4.00	3,971,932
Loaded Railroad Cars	761,570	115,159	6.61	6.75	777,323
Commercial Aircraft	24,370,240	398,917	61.09	61.25	24,433,666
Airline Passengers	97,831,282	47,053,518	2.08	2.10	98,812,388
Total	152,314,000	.....	.....	.....	153,406,994
PROPOSED AQI USER FEE RATES—FY 2002					
Commercial Vessel	26,385,091	54,955	480.12	480.25	26,392,139
Commercial Trucks[3]	4,096,966	1,003,701	4.08	4.25	4,265,729
Loaded Railroad Cars	806,738	117,462	6.87	7.00	822,234
Commercial Aircraft	25,356,895	408,369	62.09	62.25	25,420,970
Airline Passengers	101,538,310	47,307,853	2.15	2.15	101,711,884
Total	158,184,000	.....	.....	.....	158,612,956

[1] Except for FY 1997, decals could be purchased for 20 times the individual crossing rate. As explained elsewhere in this document, the decal rate would not be increased for FY 1997, although the individual crossing rate would be. Therefore, projected revenue for FY 1997 reflects 624,868 individual crossings @ 3.75 and 15,656 decal purchases @ 40.00 per decal.
[2] Decals could be purchased at 20 times the individual crossing rate, or 80.00 per decal.
[3] Decals may be purchased at 20 times the individual crossing rate, or 85.00 per decal.

Current and Future User Fees

Our current user fees for AQI services and the user fees we are proposing to charge for these services each fiscal year from 1997 through 2002 are shown below. Each service and the user fee for it are discussed individually below.

AGRICULTURAL QUARANTINE INSPECTION (AQI) USER FEES

Service	Original user fee	Current user fee	Proposed user fees					
			FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
Commercial Vessel	$544.00	$369.50	$447.00	$454.50	$454.50	$461.75	$471.25	$480.25

AGRICULTURAL QUARANTINE INSPECTION (AQI) USER FEES—Continued

Service	Original user fee	Current user fee	Proposed user fees					
			FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
Commercial Truck	2.00	2.00	3.75	4.00	4.00	4.00	4.00	4.25
Commercial Truck Decal ...	40.00	40.00	40.00	80.00	80.00	80.00	80.00	85.00
Loaded Railroad Car	7.00	7.00	6.50	6.50	6.50	6.75	6.75	7.00
Commercial Aircraft	76.75	53.00	59.25	5.75	59.75	60.25	61.25	62.25
Airline Passenger	2.00	1.45	1.95	2.00	2.00	2.05	2.10	2.15

We have included in our explanation of each activity, the total fee increase percentage through FY 2002 and the average annual fee increase percentage. These percentages will differ among the activities depending on our projected costs and estimated volumes for each activity. As explained previously, each individual fee is set to reflect the actual cost of providing the specific service. Therefore, the percentage increase or decrease in a program is directly related to the actual volume and costs in that program in the past.

Commercial Vessels

One of the AQI services we provide is inspection of commercial vessels of 100 net tons or more. Our original user fee for this service was $544.00, effective May 13, 1991. The current user fee—$369.50—became effective on January 1, 1993, following publication of an interim rule in the Federal Register on December 31, 1992 (Docket No. 92–148–1, 57 FR 62468 *et seq.*, at 62472). This fee has not been adjusted since January 1, 1993, and the reserve will be depleted by the end of FY 1996.

Our proposed user fees for commercial vessels are: $447.00, effective FY 1997; $454.50, effective FY 1998; $454.50, effective FY 1999; $461.75, effective FY 2000; $471.25, effective FY 2001; and $480.25, effective FY 2002. Even though the fee increases over 6 years, it remains below the original level set in 1991.

Commercial Trucks

We also offer AQI services to commercial trucks. Our truck user fees are collected for us by the U.S. Customs Service (Customs).

The current truck user fees were established in FY 1991 (Docket 91–028, 56 FR 14837 *et seq.*, at 14844, effective May 13, 1991). The fees have not been adjusted since then. Unfortunately, when we established these user fees we underestimated personnel costs and overestimated the volume of trucks that would be crossing the U.S.-Mexican border. We have adjusted the decal portion of our collection system several times to make it more efficient. However, because of the mechanics of issuing decals, we have had to wait over a year after each change to evaluate its effectiveness. In spite of the adjustments we have made, we did not collect enough money during FYs 1992, 1994, and 1995 to recover the steadily rising costs of providing AQI services to commercial trucks. We foresee that FY 1996 will result in a deficit of over $1 million. Because our user fees are intended to recover full cost, our truck user fees must be raised.

The regulations currently provide that commercial trucks pay the APHIS user fee each time they enter the customs territory of the United States from Mexico [1]. However, commercial trucks are also subject to Customs user fees. Our regulations therefore provide that commercial trucks must prepay the APHIS user fee if they are prepaying the Customs user fee. In that case, the required APHIS user fee is 20 times the user fee for each arrival, and is valid for an unlimited number of entries during the calendar year (see § 354.3(c)(3)(i) of the regulations). The truck owner or operator, upon payment of the APHIS and the Customs user fees, receives a decal to place on the truck windshield. This is a joint decal, indicating that both the Customs and APHIS user fees for the truck have been paid for that calendar year.

The current truck user fee is $2.00 for individual arrivals; $40.00 for a decal. We are proposing to adopt an individual arrival fee of $3.75 for FY 1997, $4.00 for FYs 1998 through 2001, and $4.25 in FY 2002. We are proposing decal fees of $40.00 in FY 1997, $80.00 FYs 1998 through 2001, and $85.00 in FY 2002. These proposed fee increases would ensure that we recover the full cost of providing AQI services to commercial trucks, except in FY 1997.

With the exception of FY 1997, we are proposing to retain a prepaid truck user fee of 20 times the user fee for each arrival. For FY 1997 we are proposing a prepaid truck user fee of nearly 11 times the proposed user fee for each arrival. This would result in a prepaid user fee for FY 1997 of $40.00, the same as the current prepaid user fee for commercial trucks. The reason for this is that Customs has already printed decals for FY 1997. The cost of reprinting decals and replacing those which have already been issued is greater than the amount in fees that could be collected if replacement decals were printed.

Commercial Railroad Cars

Another AQI service we offer is inspection of commercial railroad cars. Our current user fee for this service is $7.00 per loaded commercial railroad car for each arrival, or, if user fees are prepaid, an amount 20 times the individual arrival fee for each loaded rail car. Prepaid user fees cover one calendar year's worth of AQI inspections. These fees have not been adjusted since they were established in FY 1991 (Docket 91–028, 56 FR 14837 *et seq.*, at 14845, effective May 13, 1991).

We are proposing to adopt user fees of $6.50, effective FYs 1997 through 1999; $6.75, effective FYs 2000 and 2001; and $7.00, effective FY 2002. These proposed user fees are all less than or equal to the current fee.

Commercial Aircraft User Fee

Our user fees also cover the cost of AQI services provided by APHIS in connection with the arrival of international commercial aircraft at ports in the customs territory of the United States.

The current user fee for international commercial aircraft became effective on March 1, 1996, following publication of a final rule in the Federal Register on January 29, 1996 (Docket No. 94–074–2, 61 FR 2660–2665). At that time the fee was reduced to $53.00. This reduction was the second since the user fee was originally set at $76.75, effective February 9, 1992. The other reduction was from $76.75 to $61.00, effective January 1, 1993 (Docket No. 92–148–1, 57 FR 62468–62473).

We are now proposing to amend the user fee for international commercial aircraft. The fee would be adjusted as

[1] § 354.3(c)(2)(i) of the regulations states that commercial trucks entering the customs territory of the United States from Canada are exempt from paying an APHIS user fee.

follows: $59.25, effective FY 1997; $59.75, effective FYs 1998 and 1999; $60.25, effective FY 2000; $61.25, effective FY 2001; and $62.25, effective FY 2002. This user fee would remain in FY 2002 substantially below the $76.75 level it was originally set at in 1992.

International Airline Passenger User Fee

Another service our user fees cover is the cost of AQI services provided by APHIS in connection with the arrival of international airline passengers at a port in the customs territory of the United States.

Our original user fee for international airline passengers was $2.00, effective May 13, 1991. The current $1.45 user fee became effective January 1, 1993, following publication of an interim rule in the Federal Register on December 31, 1992 (Docket No. 92–148–1, 57 FR 62468 *et seq.*, at 62472). This fee has not been adjusted in nearly 3 years, and the reserve has been reduced to 25.23 percent of annual operating costs. However, if this fee is not increased, the entire reserve will be depleted sometime in FY 1998.

We are proposing to raise the international air passenger user fee to $1.95 in FY 1997, $2.00 in FYs 1998 and 1999, $2.05 in FY 2000, $2.10 in FY 2001, and $2.15 in FY 2002. Under our proposal, this user fee would increase in FY 1997 to $1.95 and then increase to the original level and remain stable through FY 1999. In FYs 2000 through 2002 it would increase by approximately 2.5 percent per annum. Spread over 6 years, this is an average annual increase of less than 1 percent above the original level, and 48 percent above the current fee.

Most of the increase in this user fee would be in FY 1997. Over the last several years, increased level of passenger demand has led APHIS to expand the AQI program to improve service by reducing passenger delays and better safeguarding U.S. agriculture by reducing the risk of exotic pests entering the country. We have hired over 250 new officers and canine teams specifically to clear international airline passengers. The additional personnel will enable us to keep pace with workload demand, while performing high quality inspection services. However, hiring new personnel to reduce passenger delays and reduce the risk of exotic pests entering the country increases our costs to provide inspection services. This increase in costs (as well as eliminating further draw down in the reserve) is reflected in the initial fee increase.

Miscellaneous Amendments

We are also proposing to amend the regulations to clarify that all user fees collected from international passengers on behalf of APHIS are to be held in trust for the United States by each person collecting such user fees, by any person holding such fees, or by the person who is ultimately responsible for remittance of such fees to APHIS. By clarifying that the international passenger user fees are held in trust, we make it clear that the person collecting or possessing the fees shall hold only a possessory interest and not an equitable interest in such fees.

We will allow the person collecting or holding the fees to retain any interest earned on the fees between the time of collection and the time the fees are due to be remitted to APHIS. This would help offset the cost of collecting and remitting the fees to APHIS. All other provisions of our current regulations, such as the date and form of remittance, would remain the same.

Executive Order 12866 and Regulatory Flexibility Act

This rule has been reviewed under Executive Order 12866. The rule has been determined to be significant for the purposes of Executive Order 12866 and, therefore, has been reviewed by the Office of Management and Budget.

This proposed rule, if adopted, would, over a 6 year period, generally increase user fees for certain international airline passengers, commercial aircraft, commercial vessels, commercial trucks, and commercial railroad cars, in order to recover the cost to APHIS of providing services. Some user fees would be initially reduced. Amendments to user fees are necessary to adjust for changes in service volume and in costs.

These proposed fee changes would directly affect international commercial maritime vessels of 100 net tons or more, commercial trucks, loaded commercial railroad cars, and commercial aircraft arriving at ports in the customs territory of the United States. The impact of adjusting each fee is discussed separately below.

The proposed fee changes would also directly impact international airline passengers arriving at ports in the customs territory of the United States. However, we have not included a discussion of the effect on airline passengers, as individuals are not covered by the Regulatory Flexibility Act.

Commercial Vessels

According to the Bureau of the Census, there were 334 U.S. businesses in 1992 engaged in water transportation of freight internationally between the United States and foreign ports. Of these businesses, at least 93 percent would be considered small according to SBA criteria for a small entity in this category (i.e., an entity that employs fewer than 500 persons).

APHIS user fees for commercial vessels apply only to those of 100 net tons or more arriving from foreign ports, except ports in Canada. All of the United States' oceangoing fleet exceeds 100 net tons, but only a limited portion engages in foreign trade. Data from the Department of Transportation's Maritime Administration shows that there were 319 private oceangoing merchant vessels in the United States at the beginning of 1996. Of these vessels, 127 are tankers and the remainder are dry cargo vessels. The vast majority of the tankers operate nearly exclusively between United States ports. They are therefore not subject to the APHIS commercial vessel user fee. Those vessels subject to the APHIS user fee are mostly dry cargo vessels operating between the United States and foreign ports. We believe, however, that the impact of the proposed APHIS user fees on these vessels is likely to be minimal, whether a vessel is operated by a small or a large entity. Total daily operating costs for dry cargo vessels idle in port averages between $23,600 and $26,800. The proposed $77.50 user fee increase for FY 1997 represents less than 0.4 percent of one day's operating costs of an average dry cargo vessel while in port, and remains $97.00 below the original fee set in 1991.

For subsequent years, we are proposing either no fee increase (FY 1999) or much smaller increases ($7.50, FY 1998; $7.25, FY 2000; $9.50, FY 2001; and $9.00, FY 2002). Therefore, we believe the impact of our proposed commercial vessel user fees on small businesses would be minimal.

Commercial Trucks

The SBA criterion for a small trucking firm is one whose annual receipts are less than $18.5 million. We are unable to accurately estimate the number of U.S. firms that would be considered small by this criterion. However, we believe U.S. firms would be largely unaffected by the proposed fee changes. In 1991, transportation expenses for commercial U.S. trucks traveling from Mexico to the United States varied between $85.00 and $175.00 per trip for trucks carrying non-agricultural commodities. Assuming constant costs, adding $2.00 to the user fee per truck,

per crossing, as we propose,[2], would represent an increase in operating expenses of between 1.1 and 2.4 percent for trucks carrying non-agricultural commodities. Transportation expenses for trucks hauling agricultural commodities ranged from $300.00 to $1,700.00 per trip in 1991. Again, assuming constant costs, our proposed user fee increases would represent operating expense increases of between 0.12 and 0.67 percent for trucks hauling agricultural goods. It therefore appears that the impact on small U.S. independent trucking firms would be insignificant.

Commercial Railroad Cars

There are 5 U.S. railroad companies currently transporting goods across the U.S.-Mexican border. These railroad companies would be directly affected by our proposal to reduce our user fee for this service. These railroad companies would also be directly affected by the subsequent fee increases we are proposing. However, we are not proposing to increase this fee until FY 2002, at which time the fee would increase to an amount equal to the current fee. We are not proposing to increase the user fee beyond the current rate. Proposed user fee changes would affect direct operating expenses. Two of these railroad companies met the SBA criterion for small entities (i.e., fewer than 1,500 employees). As of 1991, the most recent year for which figures are available, these small railroad companies were transporting between 960 and 2,000 loaded railroad cars into the United States from Mexico annually. These cars were all subject to the APHIS user fee. Assuming a similar number of cars subject to inspection in future years, in FY 1997 reduced user fees would result in a cost savings for these railroad companies of between $480.00 and $1,000.00. Specific data on the operating expenses or profit margins of these railroad companies is not available to us. However, we believe the proposed fee changes would not have any significant economic effect on small railroad companies.

Commercial Airlines

According to the latest figures available from the Bureau of the Census, domestic and international airlines employed a total of 707,148 employees in 1992. SBA criterion for a small airline is one that employs 1,500 or fewer employees. Although the size distribution of air carriers affected by our user fees is unknown, we anticipate that the impact of the proposed fee increases will be minimal. The greatest proposed fee increase—$6.25 per aircraft per entry in FY 1997—would, when applied to all aircraft subject to our fee, comprise less than 0.1 percent of the average operating costs of air carriers. In addition, the APHIS user fee would remain lower in FY 2002 than it was at its inception, despite increases starting in FY 1997.

In addition to user fees paid directly by airlines for aircraft inspection, airlines collect user fees on our behalf from passengers. Airlines already have collection and disbursement systems in place for international passengers. We believe it is unlikely that there would be any significant increase in the costs of maintaining these systems as a result of our proposed rule. We are proposing that airlines establish trust accounts for user fees collected from passengers. However, we are also proposing that airlines may retain any interest earned by monies in such accounts.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action would not have a significant economic impact on a substantial number of small entities.

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR part 3015, subpart V.)

Executive Order 12988

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. If this proposed rule is adopted: (1) All State and local laws and regulations that are inconsistent with this rule will be preempted; (2) no retroactive effect will be given to this rule; and (3) administrative proceedings will not be required before parties may file suit in court challenging this rule.

Paperwork Reduction Act

This proposed rule contains no new information collection or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 7 CFR Part 354

Exports, Government employees, Imports, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements, Travel and transportation expenses.

Accordingly, 7 CFR part 354 would be amended as follows:

PART 354—OVERTIME SERVICES RELATING TO IMPORTS AND EXPORTS; AND USER FEES

1. The authority citation for part 354 would continue to read as follows:

Authority: 7 U.S.C. 2260; 21 U.S.C. 136 and 136a; 49 U.S.C. 1741; 7 CFR 2.22, 2.80, and 371.2(c).

2. Section 354.3 would be amended by revising paragraphs (b)(1), (c)(1), (c)(3)(i) introductory text, (d)(1), (e)(1), and (f)(1) to read as follows, and by adding a new paragraph (f)(4)(i)(C) to read as follows:

§ 354.3 User fees for certain international services.

* * * * *

(b) * * * (1) Except as provided in paragraph (b)(2) of this section, the master, licensed deck officer, or purser of any commercial vessel which is subject to inspection under part 330 of this chapter or 9 CFR chapter I, subchapter D, and which is either required to make entry at the customs house under 19 CFR 4.3 or is a United States-flag vessel proceeding coastwise under 19 CFR 4.85, shall, upon arrival, proceed to Customs and pay an APHIS user fee. The APHIS user fee for each arrival, not to exceed 15 payments in a calendar year, is shown in the following table. The APHIS user fee shall be collected at each port of arrival.

Effective dates	Amount
[Effective date of docket] through September 30, 1997	$447.50
October 1, 1997 through September 30, 1998	454.50
October 1, 1998 through September 30, 1999	454.50
October 1, 1999 through September 30, 2000	461.75
October 1, 2000 through September 30, 2001	471.25
October 1, 2001	480.25

* * * * *

(c) * * * (1) Except as provided in paragraph (c)(2) of this section, the driver or other person in charge of a commercial truck which is entering the customs territory of the United States and which is subject to inspection under part 330 of this chapter or under 9 CFR, chapter I, subchapter D, must, upon arrival, proceed to Customs and pay an APHIS user fee for each arrival, as shown in the following table:

Effective dates	Amount
[Effective date of docket] through September 30, 1997	$3.75

[2] A decal is also available which allows unlimited border crossings per year for one fee. This decal is available only for trucks which prepay the U.S. Customs user fee which applies to them.

Effective dates	Amount
October 1, 1997 through September 30, 1998	4.00
October 1, 1998 through September 30, 1999	4.00
October 1, 1999 through September 30, 2000	4.00
October 1, 2000 through September 30, 2001	4.00
October 1, 2001	4.25

* * * * *

(3) * * *

(i) The owner or operator of a commercial truck, *if* entering the customs territory of the United States from Mexico *and* applying for a prepaid Customs permit for a calendar year, must apply for a prepaid APHIS permit for the same calendar year. Applicants must apply to Customs for prepaid APHIS permits.[1] The following information must be provided, together with payment of an amount 20 times the APHIS user fee for each arrival, *except,* that through September 30, 1997, the amount to be paid is $40.00:

* * * * *

(d) * * * (1) Except as provided in paragraph (d)(2) of this section, an APHIS user fee will be charged for each loaded commercial railroad car which is subject to inspection under part 330 of this chapter or under 9 CFR chapter I, subchapter D, upon each arrival. The railroad company receiving a commercial railroad car in interchange at a port of entry or, barring interchange, the railroad company moving a commercial railroad car in line haul service into the customs territory of the United States, is responsible for paying the APHIS user fee. The APHIS user fee for each arrival of a loaded railroad car is shown in the following table. If the APHIS user fee is prepaid for all arrivals of a commercial railroad car during a calendar year, the APHIS user fee is an amount 20 times the APHIS user fee for each arrival.

Effective dates	Amount
[Effective date of docket] through September 30, 1997	$6.50
October 1, 1997 through September 30, 1998	6.50
October 1, 1998 through September 30, 1999	6.50
October 1, 1999 through September 30, 2000	6.75
October 1, 2000 through September 30, 2001	6.75
October 1, 2001	7.00

* * * * *

[1] Applicants should refer to Customs Service regulations (19 CFR part 24) for specific instructions.

(e) * * * (1) Except as provided in paragraph (e)(2) of this section, an APHIS user fee will be charged for each commercial aircraft which is arriving, or which has arrived and is proceeding from one United States airport to another under a United States Customs Service ''Permit to Proceed,'' as specified in title 19, Code of Federal Regulations, §§ 122.81 through 122.85, or an ''Agricultural Clearance or Safeguard Order'' (PPQ Form 250), used pursuant to title 7, Code of Federal Regulations, § 330.400 and title 9, Code of Federal Regulations, § 94.5, and which is subject to inspection under part 330 of this chapter or 9 CFR chapter I, subchapter D. Each carrier is responsible for paying the APHIS user fee. The APHIS user fee for each arrival is shown in the following table.

Effective dates	Amount
[Effective date of docket] through September 30, 1997	$59.25
October 1, 1997 through September 30, 1998	59.75
October 1, 1998 through September 30, 1999	59.75
October 1, 1999 through September 30, 2000	60.25
October 1, 2000 through September 30, 2001	61.25
October 1, 2001	62.25

* * * * *

(f) * * * (1) Except as specified in paragraph (f)(2) of this section, each passenger aboard a commercial aircraft who is subject to inspection under part 330 of this chapter or 9 CFR, chapter I, subchapter D, upon arrival from a place outside of the customs territory of the United States, must pay an APHIS user fee. The APHIS user fee for each arrival is shown in the following table.

Effective dates	Amount
[Effective date of docket] through September 30, 1997	$1.95
October 1, 1997 through September 30, 1998	2.00
October 1, 1998 through September 30, 1999	2.00
October 1, 1999 through September 30, 2000	2.05
October 1, 2000 through September 30, 2001	2.10
October 1, 2001	2.15

* * * * *

(4) * * *

(i) * * *

(C) APHIS user fees collected from international passengers pursuant to paragraph (f) of this section shall be held in trust for the United States by the person collecting such fees, by any person holding such fees, or by the person who is ultimately responsible for remittance of such fees to APHIS. APHIS user fees collected from international passengers shall be accounted for separately and shall be regarded as trust funds held by the person possessing such fees as agents, for the beneficial interest of the United States. All such user fees held by any person shall be property in which the person holds only a possessory interest and not an equitable interest. As compensation for collecting, handling, and remitting the APHIS user fees for international passengers, the person holding such user fees shall be entitled to any interest or other investment return earned on the user fees between the time of collection and the time the user fees are due to be remitted to APHIS under this section. Nothing in this section shall affect APHIS' right to collect interest for late remittance.

* * * * *

Done in Washington, DC, this 21st day of January 1997.

Terry L. Medley,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 97–1892 Filed 1–24–97; 8:45 am]

BILLING CODE 3410–34–P

Farm Service Agency

7 CFR Part 723

RIN 0560–AF03

National Marketing Quotas for Fire-Cured (Type 21), Fire-Cured (Types 22–23), Dark Air-Cured (Types 35–36), Virginia Sun-Cured (Type 37), and Cigar-Filler and Cigar-Binder (Types 42–44 and 53–55) Tobaccos

AGENCY: Farm Service Agency, USDA.

ACTION: Proposed rule.

SUMMARY: The Secretary of Agriculture (the Secretary), is required to proclaim by March 1, 1997, national marketing quotas for fire-cured (types 21–23) and dark air-cured (types 35–36) tobaccos for the 1997–98, 1998–99, and 1999–2000 marketing years (MYs) and to determine and announce the amounts of the national marketing quotas for fire-cured (type 21), fire-cured (types 22–23), dark air-cured (types 35–36), Virginia sun-cured (type 37), and cigar-filler and cigar-binder (types 42–44 and 53–55) kinds of tobacco for the 1997–98 MY. The public is invited to submit written comments, views, and recommendations concerning the determination of the national marketing quotas for such kinds of tobacco and other related matters which are discussed in this proposed rule.

DATES: Comments must be received on or before February 12, 1997, in order to be assured consideration.

ADDRESSES: Send comments to the Director, Tobacco and Peanuts Division, Farm Service Agency (FSA), United States Department of Agriculture (USDA), Room 5750, South Building, STOP 0514, P.O. Box 2415, Washington, DC 20013–2415. All written submissions will be made available for public inspection from 8:15 a.m. to 4:45 p.m., Monday through Friday, except holidays, in Room 5750, South Building, 14th and Independence Avenue, SW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Robert L. Tarczy, FSA, USDA, Room 5750, South Building, STOP 0514, P.O. Box 2415, Washington, DC 20013–2415, 202–720–5346.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

This proposed rule has been determined to be significant for purposes of Executive Order 12866 and, therefore, has been reviewed by OMB.

Federal Assistance Program

The title and number of the Federal Assistance Program, as found in the Catalog of Federal Domestic Assistance, to which this notice applies are: Commodity Loans and Purchases—10.051.

Executive Order 12778

This proposed rule has been reviewed in accordance with Executive Order 12778, Civil Justice Reform. The provisions of the proposed rule do not preempt State laws, are not retroactive, and do not involve administrative appeals.

Regulatory Flexibility Act

It has been determined that the Regulatory Flexibility Act is not applicable to this proposed rule since FSA is not required by 5 U.S.C. 553 or any provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this rule.

Paperwork Reduction Act

The amendments to 7 CFR part 723 set forth in this proposed rule do not contain any information collection requirements that require clearance through the Office of Management and Budget under the provisions of the Paperwork Reduction Act of 1995.

Unfunded Federal Mandates

This rule contains no Federal mandates under the regulatory provisions of Title II of the Unfunded Mandate Reform Act of 1995 (UMBRA), for state, local, and tribal governments or the private sector. Thus, this rule is not subject to the requirements of sections 202 and 205 of the UMBRA.

Discussion

The proposed rule would amend 7 CFR part 723 to set forth the 1996-crop marketing quotas for these five kinds of tobacco.

Section 312(b) of the Agricultural Adjustment Act of 1938, as amended (the Act), provides that the Secretary shall determine and announce, not later than March 1, 1997, with respect to kinds of tobacco specified in this proposed rule, the amount of the national marketing quota which will be in effect for MY 1997 in terms of the total quantity of tobacco which may be marketed that will allow a supply of each kind of tobacco equal to the reserve supply level. Supply and demand for these kinds of tobacco are in balance. Thus, changes in 1997 marketing quotas, if any, will likely be small.

Section 312(c) of the Act provides that, within 30 days after proclamation of national marketing quotas for fire-cured (types 21–23) and dark air-cured (types 35–36) tobaccos, the Secretary shall conduct referenda of farmers engaged in the 1996 production of each kind of tobacco to determine whether they favor or oppose marketing quotas for MY's 1997, 1998, and 1999. These referenda are required because MY 1996 is the last year of the 3 consecutive MYs for which marketing quotas previously proclaimed will be in effect.

The Secretary shall proclaim the results of any referendum. If more than one-third of the farmers voting in a referendum for a kind of tobacco oppose the quota, the national marketing quota previously proclaimed shall not become effective. The referendum results shall in no way affect or limit any subsequent quota proclamation and submission to a future referendum as otherwise authorized in section 312 of the Act.

Section 313(g) of the Act authorizes the Secretary to convert the national marketing quota into a national acreage allotment by dividing the national marketing quota by the national average yield for the 5 years immediately preceding the year in which the national marketing quota is proclaimed. In addition, the Secretary is authorized to apportion, through county committees, the national acreage allotment to tobacco producing farms, less a reserve not to exceed 1 percent thereof for new farms and to make corrections and adjust inequities in old farm allotments, through the national factor. The national factor is determined by dividing the preliminary quota (the sum of quotas for old farms) into the quota determined for the MY in question (less the reserve).

Procedures will continue unchanged for (1) converting marketing quotas into acreage allotments; (2) apportioning allotments among old farms; (3) apportioning reserves for use in (a) establishing allotments for new farms, and (b) making corrections and adjusting inequities in old farm allotments; and (4) holding referenda.

Request for Comments

This rule proposes to amend 7 CFR part 723, subpart A to include 1997-crop national marketing quotas for fire-cured (type 21), fire-cured (types 22–23), dark air-cured (types 35–36), Virginia sun-cured (type 37), and cigar-filler and cigar-binder (types 42–44 and 53–55) tobaccos. These five kinds of tobacco account for about 4 percent of total U.S. tobacco production.

Accordingly, comments are requested concerning the establishment of the national marketing quotas for the following:

(1) Fire-Cured (Type 21) Tobacco

The 1997-crop national marketing quota for fire-cured (type 21) tobacco will range from 2.0 to 2.2 million pounds. This range reflects the assumption that the national acreage factor will range from 1.0 to 1.1.

(2) Fire-Cured (Types 22–23) Tobacco

The 1997-crop national marketing quota for fire-cured (types 22–23) tobacco will range from 40.0 to 44.0 million pounds. This range reflects the assumption that the national acreage factor will range from 1.0 to 1.1.

(3) *Dark Air-Cured (Types 35–36) Tobacco*

The 1997-crop national marketing quota for dark air-cured (types 35–36) tobacco will range from 9.0 to 9.9 million pounds. This range reflects the assumption that the national acreage factor will range from 1.0 to 1.1.

(4) *Virginia Sun-Cured (Type 37) Tobacco*

The 1997-crop national marketing quota for Virginia sun-cured (type 37) tobacco will range from 140,000 to 154,000 pounds. This range reflects the assumption that the national acreage factor will range from 1.0 to 1.1.

(5) *Cigar-Filler and Cigar-Binder (Types 42–44 and 53–55) Tobaccos*

The 1997-crop national marketing quota for cigar-filler and cigar-binder (types 42–44 and 53–55) tobaccos will range from 8.0 to 8.8 million pounds. This range reflects the assumption that the national acreage factor will range from 1.0 to 1.1.

List of Subjects in 7 CFR Part 723

Acreage allotments, Marketing quotas, Penalties, Reporting and recordkeeping requirements, Tobacco.

Accordingly, it is proposed that 7 CFR part 723, subpart A be amended as follows:

PART 723—TOBACCO

1. The authority citation for 7 CFR part 723 continues to read as follows:

Authority: 7 U.S.C. 1301, 1311–1314, 1314–1, 1314b, 1314b–1, 1314b–2, 1314c, 1314d, 1314e, 1314f, 1314i, 1315, 1316, 1362, 1363, 1372–75, 1421, 1445–1, and 1445–2.

2. Section 723.113 is amended by adding paragraph (e) to read as follows:

§ 723.113 Fire-cured (type 21) tobacco.

* * * * *

(e) The 1997-crop national marketing quota will range from 2.0 million pounds to 2.2 million pounds.

3. Section 723.114 is amended by adding paragraph (e) to read as follows:

§ 723.114 Fire-cured (types 22 & 23) tobacco.

* * * * *

(e) The 1997-crop national marketing quota will range from 40.0 million pounds to 44.0 million pounds.

4. Section 723.115 is amended by adding paragraph (e) to read as follows:

§ 723.115 Dark air-cured (types 35–36) tobacco.

* * * * *

(e) The 1997-crop national marketing quota will range from 9.0 million pounds to 9.9 million pounds.

5. Section 723.116 is amended by adding paragraph (e) to read as follows:

* * * * *

§ 723.116 Sun-cured (type 37) tobacco.

* * * * *

(e) The 1997-crop national marketing quota will range from 140,000 to 154,000 pounds.

6. Section 723.117 is amended by adding paragraph (e) to read as follows:

§ 723.117 Cigar-filler and Cigar binder (types 42–44 and 53–55) tobacco.

* * * * *

(e) The 1997-crop national marketing quota will range from 8.0 million pounds to 8.8 million pounds.

* * * * *

Signed at Washington, DC. January 21, 1997.

Grant Buntrock,

Administrator, Farm Service Agency.

[FR Doc. 97–1874 Filed 1–22–97; 2:34 pm]

BILLING CODE 3410–05–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 96–NM–175–AD]

RIN 2120–AA64

Airworthiness Directives; Short Brothers Model SD3–30 and SD3–60 Series Airplanes Equipped with Fire Fighting Enterprises (U.K.) Ltd. Fire Extinguishers

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to all Shorts Model SD3–30 and SD3–60 series airplanes equipped with certain fire extinguishers. This proposal would require replacement of the covers for fire extinguisher adapter assemblies that are installed on certain bulkheads with new covers that swivel to lock the extinguishers in place; and replacement of nozzles and triggers on these fire extinguishers with better fitting nozzles and stronger triggers. It also would require the installation of new fire extinguisher point placards and a revision of the Airplane Flight Manual to instruct the flight crew in the use of the new covers for these adapter assemblies. This proposal is prompted by reports that these fire extinguishers are not discharging properly because they do not fit correctly with the adapter, and that triggers on these extinguishers are failing. The actions specified by the proposed AD are intended to ensure that, in the event of fire in the baggage bay, extinguishing agent is properly distributed within this area, and portable extinguishers operate properly; and to prevent injury to crew and passengers when a portable extinguisher is discharged.

DATES: Comments must be received by March 7, 1997.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 96–NM–175–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Short Brothers PLC, 2011 Crystal Drive, Suite 713, Arlington, Virginia 22202–3719. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Greg Dunn, Aerospace Engineer, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (206) 227–2799; fax (206) 227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 96–NM–175–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 96–NM–175–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The FAA has received reports indicating that certain portable cabin fire extinguishers, manufactured by Fire Fighting Enterprises Ltd. and carried onboard all Shorts Model SD3–30 and SD3–60 series airplanes, may not work properly when installed on bulkheads separating the passenger cabin from the

aft and/or forward baggage bays. Because the nozzle of the extinguisher and the adapter do not fit together correctly, the extinguishing agent is ''blown back'' into the passenger cabin. This condition, if not corrected, could prevent adequate distribution of fire extinguishing agent within the baggage bay, and could cause injury to crew and passengers.

The FAA also has received reports indicating that triggers on these fire extinguishers have failed because the operator did not lift the safety catch before squeezing the trigger; this caused the trigger to break at the neck of the actuating tang. This condition, if not corrected, could make the extinguisher unserviceable and, if broken during operation, could cause the extinguisher to fail, or cause a loss in the ability to control or stop discharge of the extinguishing agent.

Explanation of Relevant Service Information

Short Brothers has issued Shorts Service Bulletin SD330–26–14, dated September 1994 (for Model SD3–30 series airplanes); and Service Bulletin SD360–26–11, dated July 1994 (for Model SD3–60 series airplanes). These service bulletins describe procedures for replacing the covers of the fire extinguisher adapter assemblies installed on bulkheads between the passenger cabin and baggage bays with new covers that swivel and lock the extinguishers in place. These service bulletins also describe procedures for installing new fire extinguisher point placards and revising the Airplane Flight Manual (AFM) to include instructions for the flight crew about using the new covers with the fire extinguishers.

Fire Fighting Enterprises (U.K.) Ltd. has issued Service Bulletin 26–107, Revision 1, dated November 2, 1992, which describes procedures for replacing the nozzles on portable cabin fire extinguishers having part number (P/N) BA51012SR–3 and BA51012SR. The replacement nozzles are chamfered, and fit more closely in the ''O'' ring of the bulkhead adapter; this will prevent ''blow back'' of the extinguishing agent when the extinguisher is used.

In addition, Fire Fighting Enterprises (U.K.) Ltd. has issued Service Bulletin 26–108, dated September 1992, which describes procedures for replacing triggers on the discharge head assemblies of fire extinguishers carried on Shorts Model SD3–30 and SD3–60 series airplanes. The replacement trigger is manufactured from an improved and stronger material, and the radii around the neck of the actuating tang has been increased for additional strength.

Type Certification of Airplanes

These airplane models are manufactured in the United Kingdom and type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would require replacement of covers on fire extinguisher adapter assemblies on bulkheads between the passenger cabin and baggage bays with new covers that swivel and lock extinguishers in place. It would also require replacement of nozzles on these extinguishers with chamfered nozzles that fit better with these adapters; and replacement of triggers on these extinguishers with triggers made from improved and stronger materials.

Additionally, this proposed AD would require installation of new fire extinguisher point placards, and a revision of the Limitations Section of the FAA-approved AFM to include instructions for the flight crew about using the new adapter assembly covers with the fire extinguishers.

These actions would be required to be accomplished in accordance with the applicable service bulletins described previously.

Cost Impact

The FAA estimates that 50 Model SD3–30 series airplanes of U.S. registry would be affected by this proposed AD. For these airplanes, it would take approximately 9 work hours per airplane to accomplish the proposed actions on airplanes with only a forward baggage bay, and 14 work hours per airplane to accomplish the proposed actions on airplanes with forward and aft baggage bays. The average labor rate is $60 per work hour. Required parts would cost approximately $281 per airplane. Based on these figures, the cost impact of the proposed AD on U.S. operators of Model SD3–30 series airplanes is estimated to be between $41,050 and $56,050, or between $821 and $1,121 per airplane.

The FAA estimates that 72 Model SD3–60 series airplanes of U.S. registry would be affected by this proposed AD. For these airplanes, it would take approximately 12 work hours per airplane to accomplish the proposed actions, at an average labor rate of $60 per work hour. Required parts would cost approximately $281 per airplane. Based on these figures, the cost impact of the proposed AD on U.S. operators of Model SD3–60 series airplanes is estimated to be $72,072, or $1,001 per airplane.

The cost impact figures discussed above are based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

Regulatory Impact

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Short Brothers, PLC: Docket 96–NM–175–AD.

Applicability: All Model SD3–30 and SD3–60 series airplanes equipped with fire extinguishers manufactured by Fire Fighting Enterprises (U.K.) Ltd.; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been otherwise modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (d) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To ensure that, in the event of fire, extinguishing agent is properly distributed within the baggage bays and portable extinguishers operate properly; and to prevent injury to crew and passengers, accomplish the following:

(a) Within 6 months after the effective date of this AD, install a new cover on each fire extinguisher adapter assembly on bulkheads between the passenger cabin and aft and/or forward baggage bay, in accordance with Shorts Service Bulletin SD330–26–14, dated September 1994 (for Shorts Model SD3–30 series airplanes), or Shorts Service Bulletin SD360–26–11, dated July 1994 (for Shorts Model SD3–60 series airplanes), as applicable.

(b) Prior to further flight after accomplishing the actions required by paragraph (a) of this AD, accomplish both paragraphs (b)(1) and (b)(2) of this AD:

(1) Install new fire extinguisher point placards, in accordance with Shorts Service Bulletin SD330–26–14, dated September 1994 (for Shorts Model SD3–30 series airplanes), or Shorts Service Bulletin SD360–26–11, dated July 1994 (for Shorts Model SD3–60 series airplanes), as applicable. And

(2) Revise the Limitations Section of the FAA-approved Airplane Flight Manual (AFM), in accordance with Note 1 of Paragraph 1.C. of Shorts Service Bulletin SD330–26–14, dated September 1994 (for Shorts Model SD3–30 series airplanes), or Shorts Service Bulletin SD360–26–11, dated July 1994 (for Shorts Model SD3–60 series airplanes), as applicable.

(c) For airplanes equipped with fire extinguishers having part number (P/N) BA51012SR–3 or BA51012SR: Within 6 months after the effective date of this AD, accomplish either paragraph (c)(1) or (c)(2) of this AD:

(1) Install a chamfered nozzle on the discharge head assembly of each fire extinguisher by replacing the discharge head assembly with a new discharge head assembly, having P/N BA22988–3, in accordance with Fire Fighting Enterprises (U.K.) Ltd. Service Bulletin 26–107, Revision 1, dated November 2, 1992. Or

(2) Replace the trigger on the discharge head assembly of each fire extinguisher with a new trigger, in accordance with Fire Fighting Enterprises (U.K.) Ltd. Service Bulletin 26–108, dated September 1992. After replacement, install a chamfered nozzle on the discharge head assembly of each fire extinguisher by reworking the discharge head assembly in accordance with Fire Fighting Enterprises (U.K.) Ltd. Service Bulletin 26–107, Revision 1, dated November 2, 1992

(d) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Standardization Branch, ANM–113.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Standardization Branch, ANM–113.

(e) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Issued in Renton, Washington, on January 17, 1997.

S.R. Miller,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 97–1825 Filed 1–24–97; 8:45 am]

BILLING CODE 4910–13–U

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14 CFR Part 39

[Docket No. 96–NM–127–AD]

RIN 2120–AA64

Airworthiness Directives; Construcciones Aeronauticas, S.A. (CASA) Model CN–235 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain CASA Model CN–235 series airplanes. This proposal would require the replacement of the center wing attachment rods with new rods. This proposal is prompted by a report from the manufacturer indicating that these rods failed during a full-scale fatigue test. The actions specified by the proposed AD are intended to prevent fatigue failure of these rods, which consequently could reduce the structural integrity of the wing-to-fuselage attachment.

DATES: Comments must be received by March 3, 1997.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 96–NM–127–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Construcciones Aeronauticas, S.A., Getafe, Madrid, Spain. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Greg Dunn, Aerospace Engineer, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (206) 227–2799; fax (206) 227–1149

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to

Docket Number 96–NM–127–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 96–NM–127–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The Dirección General de Aviación (DGAC), which is the airworthiness authority for Spain, recently notified the FAA that an unsafe condition may exist on certain CASA Model CN–235 series airplanes. The DGAC advises that it has received a report from the manufacturer indicating that, during full-scale fatigue tests on the test model, the center wing attachment rods had failed at the joints where the center wing attaches to the fuselage; this failure occurred subsequent to 16,000 simulated landings. This condition, if not corrected, could reduce the structural integrity of the wing-to-fuselage attachment.

Explanation of Relevant Service Information

CASA has issued Service Bulletin SB–235–53–21M, Revision 1, dated November 21, 1994 (for military airplanes), and Service Bulletin SB–235–53–21, Revision 3, dated November 30, 1994 (for non-military airplanes). These service documents describe procedures for replacement of center wing attachment rods having CASA part number (P/N) 35–22058–0003 or 35–22067–0001 with new rods having CASA P/N 35–22067–0003.

The DGAC classified CASA Service Bulletin SB–235–53–21 as mandatory and issued Spanish airworthiness directive 05/94, dated August 1994, in order to assure the continued airworthiness of these airplanes in Spain.

FAA's Conclusions

This airplane model is manufactured in Spain and is type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the DGAC has kept the FAA informed of the situation described above. The FAA has examined the findings of the DGAC, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would require replacement of center wing attachment rods having CASA part number (P/N) 35–22058–0003 or 35–22067–0001 with new rods having CASA P/N 35–22067–0003. The actions would be required to be accomplished in accordance with the applicable service bulletins described previously.

Cost Impact

The FAA estimates that 1 CASA Model CN–235 series airplane of U.S. registry would be affected by this proposed AD.

It would take approximately 12 work hours per airplane to accomplish the proposed action, at an average labor rate of $60 per work hour. Required parts would cost approximately $1,485 per airplane. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be $2,205 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

Regulatory Impact

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Construcciones Aeronauticas, S.A., CASA: Docket 96–NM–127–AD.

Applicability: Model CN–235 series airplanes; as listed in CASA Service Bulletin SB–23–53–21M, Revision 1, dated November 21, 1994 (military airplanes), and CASA Service Bulletin SB–235–53–21, Revision 3, dated November 30, 1994 (non-military airplanes); certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been otherwise modified, altered, or this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (b) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent fatigue from causing the center wing attachment rods to fail, which consequently could reduce the structural integrity of the wing-to-fuselage attachment, accomplish the following:

(a) Prior to the accumulation of 16,000 total landings, replace center wing attachment rods having CASA part number (P/N) 35–22058–0003 or 35–22067–0001 with new rods having CASA P/N 35–22067–0003, in accordance with CASA Service Bulletin SB–235–53–21M, Revision 1, dated November 21, 1994 (for military airplanes); or CASA Service Bulletin SB–235–53–21, Revision 3, dated November 30, 1994 (for non-military airplanes); as applicable.

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Standardization Branch, ANM–113, FAA,

Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Standardization Branch, ANM–113.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Standardization Branch, ANM–113.

(c) Special flight permits may be issued in accordance with sections 21.197 and 121.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Issued in Renton, Washington, on January 15, 1997.

S. R. Miller,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 97–1479 Filed 1–24–97; 8:45 am]

BILLING CODE 4910–13–U

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14 CFR Part 39

[Docket No. 96–NM–169–AD]

RIN 2120–AA64

Airworthiness Directives; Airbus Model A310 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Airbus Model A310 series airplanes. This proposal would require modification of the wiring for certain hydraulic fire shutoff valves to the right engine to prevent chafing. This proposal is prompted by reports indicating that a circuit breaker to wiring in the right engine had tripped on two airplanes, the cause of which has been attributed to chafing of the associated wire bundle. The actions specified by the proposed AD are intended to prevent this wiring from chafing which, if not corrected, could lead to short circuiting of this wiring and the consequent inability to close the hydraulic fire shutoff valves to the right engine in the event of fire.

DATES: Comments must be received by March 4, 1997.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 96–NM–169–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Charles Huber, Aerospace Engineer, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (206) 227–2589; fax (206) 227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 96–NM–169–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 96–NM–169–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The Direction Generale de l'Aviation Civile (DGAC), which is the airworthiness authority for France, recently notified the FAA that an unsafe condition may exist on certain Model A310 series airplanes. The DGAC advises that it has received reports indicating that circuit breaker 103GD had tripped on two airplanes. A subsequent technical investigation determined that chafing of wire bundle 628VB against fire shutoff valve 2GD had caused this circuit breaker to trip. This valve is one of the valves that prevents the flow of hydraulic fluid to the right engine in the event of a fire. Investigators also noted the potential for wire bundles 626VB and 632VB to chafe. Chafing of these wire bundles, if not prevented, could lead to short circuiting of this wiring and the consequent inability to close the hydraulic fire shutoff valves to the right engine in the event of fire.

Explanation of Relevant Service Information

Airbus has issued Service Bulletin A310–24–2065, dated November 30, 1995, and Revision 1, dated April 19, 1996, which describe procedures for modification of the wiring for certain hydraulic fire shutoff valves to the right engine to prevent chafing. This modification entails the installation of protective conduits for wire bundles 626VB and 628VB; re-routing these wire bundles and wire bundle 632VB; and changing the arrangement of the clamps that attach all of these wire bundles to the airplane structure. The DGAC classified this service bulletin as mandatory and issued French airworthiness directive (C/N) 96–021–196(B), dated January 31, 1996, in order to assure the continued airworthiness of these airplanes in France.

FAA's Conclusions

This airplane model is manufactured in France and is type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the DGAC has kept the FAA informed of the situation described above. The FAA has examined the findings of the DGAC, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United

States, the proposed AD would require modification of the wiring for certain hydraulic fire shutoff valves to the right engine to prevent chafing. This modification entails the installation of protective conduits for wire bundles 626VB and 628VB; re-routing these wire bundles and wire bundle 632VB; and changing the arrangement of the clamps that attach all of these wire bundles to the airplane structure. The actions would be required to be accomplished in accordance with the service bulletins described previously.

Cost Impact

The FAA estimates that 20 Airbus Model A310 series airplanes of U.S. registry would be affected by this proposed AD.

It is estimated that it would take approximately 4 work hours per airplane to accomplish the proposed actions, at an average labor rate of $60 per work hour. Required parts would be provided by the manufacturer at no cost to operators. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be $4,800, or $240 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

Regulatory Impact

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Airbus Industrie: Docket 96–NM–169–AD.

Applicability: Model A310 series airplanes as listed in Airbus Service Bulletin A310–24–2065, November 30, 1995, and Revision 1, dated April 19, 1996; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been otherwise modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (b) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent chafing of wire bundles for the hydraulic fire shutoff valves to the right engine, which could lead to short circuiting of this wiring and the consequent inability to close these valves in the event of fire, accomplish the following:

(a) Within 60 days after the effective date of this AD, modify the wiring for the hydraulic fire shutoff valves in wire bundles 626VB and 628VB, and modify wire bundle 632VB, in accordance with Airbus Service Bulletin A310–24–2065, dated November 30, 1995, or Revision 1, dated April 19, 1996, as applicable.

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Standardization Branch, ANM–113.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Standardization Branch, ANM–113.

(c) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Issued in Renton, Washington, on January 16, 1997.

S.R. Miller,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 97–1619 Filed 1–24–97; 8:45 am]

BILLING CODE 4910–13–U

14 CFR Part 39

[Docket No. 96–NM–244–AD]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas Model DC–9–10, –20, –30, –40, and –50 Series Airplanes and C–9 (Military) Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain McDonnell Douglas Model DC–9 and C–9 (military) series airplanes. This proposal would require eddy current inspections to detect cracking of the frame-to-longeron attachment area, the frame-to-skin shear clips at certain fuselage stations, and the fuselage bulkhead at the front spar of the engine pylon in the aft fuselage; and repair, if necessary. This proposal also would require certain modifications, which, when accomplished, would terminate the requirement for inspections. This proposal is prompted by reports indicating that fatigue cracking has occurred at those areas. The actions specified by the proposed AD are intended to prevent such fatigue cracking, which could cause damage to adjacent structure and result in reduced structural integrity of the airplane.

DATES: Comments must be received by February 24, 1997.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 96–NM–244–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00

p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Technical Publications Business Administration, Department C1–L51 (2–60). This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California.

FOR FURTHER INFORMATION CONTACT: Wahib Mina, Aerospace Engineer, Airframe Branch, ANM–120L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712; telephone (310) 627–5324; fax (310) 627–5210.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 96–NM–244–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 96–NM–244–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

On May 8, 1996, the FAA issued AD 96–10–11, amendment 39–9618 (61 FR 24675, May 16, 1996), which requires, among other actions, a one-time visual inspection to detect fatigue cracking of the frame-to-longeron attachment area and frame-to-skin shear clips in the aft fuselage. It also requires an eventual modification (within 86,000 total landings) that entails installing formers, plates, doublers, and angles at certain fuselage stations, and installation of a doubler, splice, filler, and strap on the fuselage bulkhead at the front spar of the engine pylon of the aft fuselage. Those actions are required to be accomplished in accordance with McDonnell Douglas Service Bulletins DC9–53–140, Revision 03, dated March 12, 1986; and DC9 53–150, Revision 2, dated February 27, 1991. That AD was prompted by reports indicating that fatigue cracking had occurred in the frame-to-longeron attachment area, the frame-to-skin shear clips of certain fuselage stations, and the fuselage bulkhead at the front spar of the engine pylon of the aft fuselage. That AD was issued to prevent degradation in the structural capabilities of the airplane.

However, after the release of McDonnell Douglas Service Bulletins DC9–53–140, Revision 03, and DC9 53–150, Revision 2, the manufacturer conducted additional fatigue analyses of the same frame-to-longeron attachment area, the frame-to-skin shear clips at certain fuselage locations, and the fuselage bulkhead at the front spar of the engine pylon of the aft fuselage. The analyses revealed that a one-time visual inspection is not an effective method of detecting fatigue cracking in this case, and that repetitive inspections using a more comprehensive inspection method are necessary. Subsequently, the manufacturer developed eddy current inspection procedures to ensure that such fatigue cracking is identified and corrected before it reaches critical lengths.

Upon consideration of these new data, the FAA finds that the one-time visual inspection required by AD 96–10–11 is not adequate to detect fatigue cracking in a timely manner. Such fatigue cracking, if not detected and corrected in a timely manner, could cause damage to the adjacent structure, and, consequently, result in loss of the capability of the engine pylon to support engine loads and possible separation of the engine from the airplane.

Explanation of Relevant Service Information

The FAA has reviewed and approved McDonnell Douglas Service Bulletin DC9–53–140, Revision 05, dated February 15, 1996, which describes procedures for repetitive eddy current inspections to detect fatigue cracking in the longeron-to-frame attachment area and frame-to-skin shear clips of certain fuselage stations, and repair, if necessary. That service bulletin also describes procedures for a modification that entails installing formers, plates, doublers, and angles at certain fuselage stations.

Additionally, the FAA previously reviewed and approved McDonnell Douglas Service Bulletin DC9 53–150, Revision 2, dated February 27, 1991, which describes procedures for visual and eddy current inspections to detect cracks in the fuselage bulkhead at the front spar of the engine pylon of the aft fuselage, and repair, if necessary. That service bulletin also describes procedures for a modification that entails installing a doubler, splice, filler, and strap on the fuselage bulkhead of the front spar of the engine pylon.

Accomplishment of the described modifications eliminates the need to repeat the visual and eddy current inspections.

(McDonnell Douglas Service Bulletins DC9–53–140, Revision 03, and DC9 53–150, Revision 2, were referenced in AD 96–10–11 as appropriate sources of service information.)

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would require repetitive visual and eddy current inspections to detect fatigue cracking of the frame-to-longeron attachment area and frame-to-skin shear clips and the fuselage bulkhead of the front spar of the engine pylon, and repair, if necessary. The eddy current inspections described in McDonnell Douglas Service Bulletin DC9–53–140, Revision 05, must be accomplished prior to or in conjunction with the visual and eddy current inspections described in McDonnell Douglas Service Bulletin 53–150, Revision 2, for all airplanes that are specified in the effectivity listing of both of these service bulletins.

This proposed AD also would require eventual modifications that entail installing formers, plates, doublers, and angles at certain fuselage stations; and

installing a doubler, splice, filler, and a strap on the fuselage bulkhead of the front spar of the engine pylon.These modifications would consitutute terminating action for the required repetitive inspections.

The actions would be required to be accomplished in accordance with the service bulletins described previously.

Cost Impact

There are approximately 569 McDonnell Douglas Model DC–9 series airplanes of the affected design in the worldwide fleet. The FAA estimates that 403 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 6 work hours per airplane to accomplish the proposed inspections, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of these inspections on U.S. operators is estimated to be $145,080, or $360 per airplane, per inspection cycle.

The FAA estimates that it would take approximately 174 work hours per airplane to accomplish the proposed modification of longeron-to-frame attachment area and the frame-to-skin shear clips of the aft fuselage. The cost of required parts would differ, depending on whether the airplane is categorized as a Group 1 airplane or a Group 2 airplanes, as defined in the applicable service bulletin. Required parts would cost approximately $13,669 per airplane for Group 1 airplanes, and $10,285 per airplane for Group 2 airplanes. Based on these figures, the cost impact of this modification on U.S. operators is estimated to be $24,109 per airplane for Group 1 airplanes, and $20,725 per airplane for Group 2 airplanes.

The FAA estimates that it would take approximately 229 work hours per airplane for Group 1 airplanes, and 137 work hours per airplane for Group 2 airplanes, to accomplish the proposed modification of the fuselage bulkhead at the front spar of the engine pylon of the aft fuselage. Required parts would cost approximately $5,871 per airplane for Group 1 airplanes, and $5,014 per airplane for Group 2 airplanes. Based on these figures, the cost impact of this modification on U.S. operators is estimated to be $19,611 per airplane for Group 1 airplanes, and $13,234 per airplane for Group 2 airplanes.

The cost impact figures discussed above are based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

Regulatory Impact

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26,

1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory

Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules

Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

McDonnell Douglas: Docket 96–NM–244–AD.

Applicability: Model DC–9–10, –20, –30, –40, –50 series airplanes, and C–9 (military) airplanes, certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been otherwise modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (g) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To ensure that fatigue cracking of the frame-to-longeron attachment area and the frame-to-skin shear clips in the aft fuselage is detected and corrected in a timely manner so as to prevent damage to adjacent structure, which could result in loss of the capability of the engine pylon to support engine loads and possible separation of the engine from the airplane, accomplish the following:

(a) For airplanes that are specified in both McDonnell Douglas Service Bulletin DC9–53–140, Revision 05, dated February 15, 1996, and McDonnell Douglas Service Bulletin DC9–53–150, Revision 2, dated February 27, 1991: Prior to the accumulation of 30,000 total landings or within 4,000 landings after the effective date of this AD, whichever occurs later, accomplish the requirements of paragraph (a)(1) and (a)(2) of this AD. The requirements of paragraph (a)(1) of this AD must be accomplished prior to or in conjunction with the requirements of paragraph (a)(2) of this AD.

(1) Perform an eddy current inspection to detect cracking of the longeron-to-frame attachment area and frame-to-skin shear clips of the aft fuselage, in accordance with the Accomplishment Instructions of McDonnell Douglas Service Bulletin DC9–53–140, Revision 05, dated February 15, 1996. If no cracking is detected, repeat these inspections thereafter at intervals not to exceed 12,500 landings, until the modification specified in paragraph (f)(1) of this AD is accomplished.

(2) Perform a visual and eddy current inspection to detect cracking of the fuselage bulkhead at the front spar of the engine pylon of the aft fuselage, in accordance with the Accomplishment Instructions of McDonnell Douglas Service Bulletin DC9 53–150, Revision 2, dated February 27, 1991. If no cracking is detected, repeat these inspections thereafter at intervals not to exceed 4,000 landings, until the modification specified in paragraph (f)(2) of this AD is accomplished.

(b) For airplanes listed in McDonnell Douglas Service Bulletin DC9–53–140 that have been previously inspected using visual inspection techniques in accordance with McDonnell Douglas Corrosion Prevention Control Program (CPCP), Document MDC–K4606, Revision 1, dated December 1990: Within 8,500 landings after the previous visual inspection or within 4,000 landings after the effective date of this AD, whichever occurs later, accomplish the requirements of paragraph (a)(1) of this AD.

(c) For airplanes that are specified in McDonnell Douglas Service Bulletin DC9–53–140, Revision 05, dated February 15, 1996, and not subject to paragraph (a) or (b) of this AD: Prior to the accumulation of 30,000 total landings or within 4,000 landings after the effective date of this AD, whichever occurs later, perform an eddy

current inspection to detect cracking of the longeron-to-frame attachment area and frame-to-skin shear clips of the aft fuselage, in accordance with the Accomplishment Instructions of McDonnell Douglas Service Bulletin DC9–53–140, Revision 05, dated February 15, 1996. If no cracking is detected, repeat these inspections thereafter at intervals not to exceed 12,500 landings, until the modification specified in paragraph (f)(1) of this AD is accomplished.

(d) For airplanes that are specified in McDonnell Douglas Service Bulletin DC9–53–150, Revision 2, dated February 27, 1991, and not subject to paragraph (a) of this AD: Prior to the accumulation of 30,000 total landings or within 4,000 landings after the effective date of this AD, whichever occurs later, perform a visual and eddy current inspection to detect cracking of the fuselage bulkhead at the front spar of the engine pylon of the aft fuselage, in accordance with the Accomplishment Instructions of McDonnell Douglas Service Bulletin DC9 53–150, Revision 2, dated February 27, 1991. If no cracking is detected, repeat these inspections thereafter at intervals not to exceed 4,000 landings, until the modifications required by paragraph (f)(2) of this AD is accomplished.

(e) If any cracking is detected during any inspection required by this AD: Prior to further flight, repair the cracking in accordance with either McDonnell Douglas Service Bulletin DC9–53–140, Revision 05, dated February 15, 1996; or McDonnell Douglas DC–9 Service Bulletin 53–150, Revision 2, dated February 27, 1991; as applicable. Thereafter, perform the inspections required by paragraph (a) of this AD.

(f) Prior to the accumulation of 86,000 total landings, or within 4 years after the effective date of this AD, whichever occurs later, accomplish the requirements of paragraps (f)(1) and paragraph (f)(2) of this AD, as applicable.

(1) For airplanes that are subject to the requirements of paragraph (a), (b), or (c) of this AD: Accomplish the modification of the longeron-to-frame attachment area and frame-to-skin shear clips, in accordance with McDonnell Douglas Service Bulletin DC9–53–140, Revision 05, dated February 15, 1996. Accomplishment of this modification constitutes terminating action for the repetitive inspection requirements of paragraphs (a)(1), (b), and (c) of this AD.

(2) For airplanes that are subject to the requirements of paragraph (a)(2) or (d) of this AD: Accomplish the modification of the fuselage bulkhead at the front spar of the engine pylon of the aft fuselage, in accordance with McDonnell Douglas Service Bulletin DC9 53–150, Revision 2, dated February 27, 1991. Accomplishment of this modification constitutes terminating action for the repetitive inspection requirements of paragraphs (a)(2) and (d) of this AD.

(g) Accomplishment of the requirements of this AD constitutes terminating action for the requirements of AD 96–10–11, amendment 39–9618, which requires modifications as specified in McDonnell Douglas Report No. MDC K1572, 'DC–9/MD–80 Aging Aircraft Service Action Requirements Document'' (SARD), Revision B, dated January 15, 1993. (Both McDonnell Douglas Service Bulletin DC9–53–140, Revision 03, dated March 12, 1986; and McDonnell Douglas Service Bulletin DC9 53–150, Revision 2, dated February 27, 1991; are specified in that Douglas report.)

(h) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Los Angeles Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Los Angeles ACO.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Los Angeles ACO.

(i) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Issued in Renton, Washington, on January 16, 1997.

S.R. Miller,

Acting Manager,Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 97–1620 Filed 1–24–97; 8:45 am]

BILLING CODE 4910–13–U

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14 CFR Part 71

[Airspace Docket No. 97–AGL–2]

Removal of Class D Airspace; Glenview, IL

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to remove Class D airspace at Glenview, IL. This airspace is removed due to the closing of the Air Traffic Control Tower at Glenview CGAF, Glenview, IL. The airspace reverts to Class E5 Chicago, IL. The intended affect of this proposal is to provide an accurate description of controlled airspace for Glenview, IL.

DATES: Comments must be received on or before March 27, 1997.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, Office of the Assistant Chief Counsel, AGL–7, Rules Docket No. 97–AGL–2, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

The official docket may be examined in the Office of the Assistant Chief Counsel, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois. An informal docket may also be examined during normal business hours at the Air Traffic Division, Operations Branch, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois.

FOR FURTHER INFORMATION CONTACT: John A. Clayborn, Air Traffic Division, Operations Branch, AGL–530, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (847) 294–7558.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Airspace Docket No. 97–AGL–2.'' The postcard will be date/time stamped and returned to the commenter. All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination in the Rules Docket, FAA, Great Lakes Region, Office of the Assistant Chief Counsel, 2300 East Devon Avenue, Des Plaines, Illinois, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of the Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Inquiry Center, APA–230, 800 Independence Avenue, S.W., Washington, DC 20591, or by calling (202) 267–3484. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also

request a copy of Advisory Circular No. 11–2A, which describes the application procedure.

The Proposal

The FAA is considering an amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) to remove Class D airspace at Glenview, IL. This airspace is removed due to the closing of the Air Traffic Control Tower at Glenview CGAF, Glenview, IL. This airspace reverts to Class E5 Chicago, IL. The intended affect of this action is to provide an accurate description of the controlled airspace near Glenview, IL. The area would be depicted on appropriate aeronautical charts thereby enabling pilots to circumnavigate the area or otherwise comply with IFR procedures. Class D airspace designations for airports are published in paragraph 5000 of FAA Order 7400.9D dated September 4, 1996, and effective September 16, 1996, which is incorporated by reference in 14 CFR 71.1. The Class D airspace designation listed in this document would be published subsequently in the Order.

The FAA has determined that this propose regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore this, proposed regulation—(1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this proposed rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR part 71

Airspace, Incorporated by reference, Navigation (air).

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) as follows:

PART 71—[AMENDED]

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 14 CFR 11.69.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9D, Airspace Designations and Reporting Points, dated September 4, 1996, and effective September 16, 1996, is amended as follows:

Paragraph 5000 General

* * * * *

AGL IL D5 Glenview, IL [Removed]

* * * * *

Issued in Des Plaines, Illinois on January 13, 1997.

Maureen Woods,

Manager, Air Traffic Division.

[FR Doc. 97–1927 Filed 1–24–97; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 71

[Airspace Docket No. 96–AGL–33]

Modification of Class E Airspace; St. Cloud, MN, St. Cloud Regional Airport

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to modify Class E airspace at St. Cloud, MN. A Global Positioning System (GPS) standard instrument approach procedure (SIAP) to Runway 5 and a GPS SIAP to Runway 23 have been developed for St. Cloud Regional Airport. Controlled airspace extending upward from 700 to 1200 feet above ground level (AGL) is needed to contain aircraft executing the approach. The intended affect of this proposal is to provide segregation of aircraft using instrument approach procedures in instrument conditions from other aircraft operating in visual weather conditions.

DATES: Comments must be received on or before March 10, 1997.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, Office of the Assistant Chief Counsel, AGL–7, Rules Docket No. 96–AGL–33, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

The official docket may be examined in the Office of the Assistant Chief Counsel, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois. An informal docket may also be examined during normal business hours at the Air Traffic Division, Operations Branch, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois.

FOR FURTHER INFORMATION CONTACT: John A. Clayborn, Air Traffic Division, Operations Branch, AGL–530, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (847) 294–7568.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Airspace Docket No. 96–AGL–33.'' The postcard will be date/time stamped and returned to the commenter. All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination in the Rules Docket, FAA, Great Lakes Region, Office of the Assistant Chief Counsel, 2300 East Devon Avenue, Des Plaines, Illinois, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of the Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Inquiry Center, APA–230, 800 Independence Avenue, S.W., Washington, DC 20591, or by calling (202) 267–3484. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2A, which describes the application procedure.

The Proposal

The FAA is considering an amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) to modify Class E airspace at St. Cloud, MN; this proposal would provide adequate Class E airspace for operators executing the GPS Runway 5 SIAP and GPS Runway 23 SIAP at St. Cloud Regional Airport. Controlled airspace extending upward from 700 to 1200 feet AGL is needed to contain aircraft executing the approach. The intended affect of this action is to provide segregation of aircraft using instrument approach procedures in instrument conditions from other aircraft operating in visual weather conditions. The area would be depicted on appropriate aeronautical charts thereby enabling pilots to circumnavigate the area or otherwise comply with IFR procedures. Class E airspace designations for airspace areas extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9D dated September 4, 1996, and effective September 16, 1996, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document would be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore this, proposed regulation—(1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this proposed rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) as follows:

PART 71—[AMENDED]

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 14 CFR 11.69.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9D, Airspace Designations and Reporting Points, dated September 4, 1996, and effective September 16, 1996, is amended as follows:

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

AGL MN E5 St. Cloud, MN [Revised]

St. Cloud Regional Airport, MN
(lat. 45°32′43″N, long. 94°03′30″W)
St. Cloud VOR/DME
(lat. 45°32′28″N, long. 94°03′27″W)

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the St. Cloud Regional Airport, and within 2.4 miles each side of the St. Cloud VOR/DME 118 radial extending from the 6.5-mile radius to 7.5 miles southeast of the airport.

* * * * *

Issued in Des Plaines, Illinois on January 13, 1997.

Maureen Woods,

Manager, Air Traffic Division.

[FR Doc. 97–1920 Filed 1–24–97; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 71

[Airspace Docket No. 96–AGL–34]

Establishment of Class E Airspace; St. Cloud, MN, St. Cloud Regional Airport

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to establish Class E airspace at St. Cloud, MN. Recent initiation of Part 135 air carrier operations and an increase in general aviation jet and turboprop aircraft operations have occurred at St. Cloud Regional Airport. Controlled airspace extending upward the surface is needed to contain these aircraft executing instrument approach procedures. The intended affect of this proposal is to provide segregation of aircraft using instrument approach procedures in instrument conditions from other aircraft operating in visual weather conditions.

DATES: Comments must be received on or before March 10, 1997.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, Office of the Assistant Chief Counsel, AGL–7, Rules Docket No. 96–AGL–34, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

The official docket may be examined in the Office of the Assistant Chief Counsel, 2300 East Devon Avenue, Des Plaines, Illinois. An informal docket may also be examined during normal business hours at the Air Traffic Division, Operations Branch, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois.

FOR FURTHER INFORMATION CONTACT: John A. Clayborn, Air Traffic Division, Operations Branch, AGL–530, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (847) 294–7568.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Airspace Docket No. 96–AGL–34.'' The postcard will be date/time stamped and returned to the commenter. All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination in the Rules Docket, FAA, Great Lakes Region, Office of the Assistant Chief Counsel, 2300 East Devon Avenue, Des Plaines, Illinois, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of the Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Inquiry Center, APA–230, 800 Independence Avenue, S.W., Washington, DC 20591, or by calling (202) 267–3484. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2A, which describes the application procedure.

The Proposal

The FAA is considering an amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) to establish Class E airspace at St. Cloud, MN; this proposal would provide adequate Class E airspace for operators executing instrument flight procedures at St. Cloud Regional Airport. Controlled airspace extending upward from the surface is needed to contain aircraft executing the instrument approach procedures. The intended affect of this action is to provide segregation of aircraft using instrument approach procedures in instrument conditions from other aircraft operating in visual weather conditions. The area would be depicted on appropriate aeronautical charts thereby enabling pilots to circumnavigate the area or otherwise comply with IFR procedures. Class E airspace designations for airspace areas designated as a surface area for an airport are published in paragraph 6002 of FAA Order 7400.9D dated September 4, 1996, and effective September 16, 1996, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document would be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore this proposed regulation—(1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this proposed rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) as follows:

PART 71—[AMENDED]

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 14 CFR 11.69.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9D, Airspace Designations and Reporting Points, dated September 4, 1996, and effective September 16, 1996, is amended as follows:

Paragraph 6002 The Class E airspace areas designated as a surface area for an airport

* * * * *

AGL MN E2 St. Cloud, MN [New]

St. Cloud Regional Airport, MN
(Lat. 45°32′ 43″ N, long. 94°03′30″ W)
St. Cloud VOR/DME
(Lat. 45°32′ 28″ N, long. 94°03′27″ W)

Within a 4-mile radius of the St. Cloud Regional Airport, and within 2.4 miles of each side of the St. Cloud VOR/DME 118 radial, extending from the 4-mile radius to 7.5 miles southeast of the airport. This Class E airspace is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

Issued in Des Plaines, Illinois on January 13, 1997.

Maureen Woods,

Manager, Air Traffic Division.

[FR Doc. 97–1921 Filed 1–24–97; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 71

[Airspace Docket No. 96–AGL–35]

Modification of Class E Airspace; Mackinac Island, MI, Mackinac Island Airport

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to modify Class E airspace at Mackinac Island, MI. A Global Positioning System (GPS) standard instrument approach procedure (SIAP) to Runway 26 has been developed for Mackinac Island Airport. Controlled airspace extending upward from 700 to 1200 feet above ground level (AGL) is needed to contain aircraft executing the approach. The intended affect of this proposal is to provide segregation of aircraft using instrument approach procedures in instrument conditions from other aircraft operating in visual weather conditions.

DATES: Comments must be received on or before March 10, 1997.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, Office of the Assistant Chief Counsel, AGL–7, Rules Docket No. 96–AGL–35, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

The official docket may be examined in the Office of the Assistant Chief Counsel, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois. An informal docket may also be examined during normal business hours at the Air Traffic Division, Operations Branch, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois.

FOR FURTHER INFORMATION CONTACT: John A. Clayborn, Air Traffic Division, Operations Branch, AGL–530, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (847) 294–7568.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Airspace Docket No. 96–

AGL–35.'' The postcard will be date/time stamped and returned to the commenter. All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination in the Rules Docket, FAA, Great Lakes Region, Office of the Assistant Chief Counsel, 2300 East Devon Avenue, Des Plaines, Illinois, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of the Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Inquiry Center, APA–230, 800 Independence Avenue, S.W., Washington, DC 20591, or by calling (202) 267–3484. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2A, which describes the application procedure.

The Proposal

The FAA is considering an amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) to modify Class E airspace at Mackinac Island, MI; this proposal would provide adequate Class E airspace for operators executing the GPS Runway 26 SIAP at Mackinac Island Airport. Controlled airspace extending upward from 700 to 1200 feet AGL is needed to contain aircraft executing the approach. The intended affect of this action is to provide segregation of aircraft using instrument approach procedures in instrument conditions from other aircraft operating in visual weather conditions. The area would be depicted on appropriate aeronautical charts thereby enabling pilots to circumnavigate the area or otherwise comply with IFR procedures. Class E airspace designations for airspace areas extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9D dated September 4, 1996, and effective September 16, 1996, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document would be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore this, proposed regulation—(1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this proposed rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) as follows:

PART 71—[AMENDED]

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 14 CFR 11.69.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9D, Airspace Designations and Reporting Points, dated September 4, 1996, and effective September 16, 1996, is amended as follows:

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

AGL MI E5 Mackinac Island, MI [Revised]

Mackinac Island Airport, MI
(Lat. 45°51′54″N, long. 84°38′14″W)
Chippewa County International Airport, MI
(Lat. 46°14′52″N, long. 84°28′15″W)
Pellston VORTAC
(Lat. 45°37′50″N, long. 84°39′51″W)

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the Mackinac Island Airport, and that airspace extending upward from 1,200 feet above the surface bounded on the north by the 22-mile radius of the Chippewa County International Airport, on the east by V45, on the south by lat. 45°45′00″N, and on the west by the 16.6-mile radius of the Pellston VORTAC.

* * * * *

Issued in Des Plaines, Illinois on January 13, 1997.

Maureen Woods,

Manager, Air Traffic Division.

[FR Doc. 97–1922 Filed 1–24–97; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 71

[Airspace Docket No. 96–AGL–36]

Modification of Class E Airspace; Chetek, WI

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to modify Class E5 airspace at Chetek Municipal-Southworth Airport, Chetek, WI, to accommodate the relocated Rice Lake, WI (T) Very High Frequency Omnidirectional Range/Distance Measuring Equipment (VOR/DME). Controlled airspace extending upward from 700 to 1200 feet above ground level (AGL) is needed to contain aircraft executing the approach. The intended effect of this proposal is to provide segregation of aircraft using instrument approach procedures in instrument conditions from other aircraft operating in visual weather conditions.

DATES: Comments must be received on or before March 27, 1997.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, Office of the Assistant Chief Counsel, AGL–7, Rules Docket No. 96–AGL–36, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

The official docket may be examined in the Office of the Assistant Chief Counsel, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois. An informal docket may also be examined during normal business hours at the Air Traffic Division, Operations Branch, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois.

FOR FURTHER INFORMATION CONTACT: John A. Clayborn, Air Traffic Division, Operations Branch, AGL–530, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (847) 294–7568.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking

by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Airspace Docket No. 96–AGL–36.'' The postcard will be date/time stamped and returned to the commenter. All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination in the Rules docket, FAA, Great Lakes Region, Office of the Assistant Chief Counsel, 2300 East Devon Avenue, Des Plaines, Illinois, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of the Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Inquiry Center, APA–230, 800 Independence Avenue, S.W., Washington, DC 20591, or by calling (202) 267–3484. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2A, which describes the application procedure.

The Proposal

The FAA is considering an amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) to modify Class E5 airspace at Chetek Municipal-Southworth Airport, Chetek, WI, to accommodate the relocated Rice Lake, WI (T) VOR/DME. Controlled airspace extending upward from 700 to 1200 feet AGL is needed to contain aircraft executing the approach. The intended affect of this action is to provide segregation of aircraft using instrument approach procedures in instrument conditions from other aircraft operating in visual weather conditions. The area would be depicted on appropriate aeronautical charts thereby enabling pilots to circumnavigate the area or otherwise comply with IFR procedures. Class E airspace designations for areas extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9D dated September 4, 1996, and effective September 16, 1996, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document would be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore this proposed regulation (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this proposed rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) as follows:

PART 71—[AMENDED]

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 14 CFR 11.69.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9D, Airspace Designations and Reporting Points, dated September 4, 1996, and effective September 16, 1996, is amended as follows:

Paragraph 6005 The Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

AGL WI E5 Chetek, WI [Revised]

Chetek Municipal-Southworth Airport, WI
(Lat. 45°18′24″N, long. 91°38′11″W)
Rice Lake VOR/DME
(Lat. 45°24′55″N, long, 91°46′41″W)

That airspace extending upward from 700 feet above the surface within a 6.4-mile radius of the Chetek Municipal-Southworth Airport, excluding that portion within the Rice Lake, WI, Class E airspace area.

* * * * *

Issued in Des Plaines, Illinois on January 13, 1997.

Maureen Woods,

Manager, Air Traffic Division.

[FR Doc. 97–1923 Filed 1–24–97; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 71

[Airspace Docket No. 96–AGL–32]

Establishment of Class E Airspace; Hillsboro, ND, Hillsboro Municipal Airport

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to establish Class E airspace at Hillsboro, ND. A Global Positioning System (GPS) standard instrument approach procedure (SIAP) to Runway 16 and a GPS SIAP to Runway 34 have been developed for Hillsboro Municipal Airport. Controlled airspace extending upward from 700 to 1200 feet above ground level (AGL) is needed to contain aircraft executing the approach. The intended affect of this proposal is to provide segregation of aircraft using instrument approach procedures in instrument conditions from other aircraft operating in visual weather conditions.

DATES: Comments must be received on or before March 10, 1997.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, Office of the Assistant Chief Counsel, AGL–7, Rules Docket No. 96–AGL–32, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

The official docket may be examined in the Office of the Assistant Chief Counsel, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois. An informal docket may also be examined during normal business hours at the Air Traffic Division, Operations Branch,

Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois.

FOR FURTHER INFORMATION CONTACT: John A. Clayborn, Air Traffic Division, Operations Branch, AGL–530, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (847) 294–7568.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Airspace Docket No. 96–AGL–32.'' The postcard will be date/time stamped and returned to the commenter. All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination in the Rules Docket, FAA, Great Lakes Region, Office of the Assistant Chief Counsel, 2300 East Devon Avenue, Des Plaines, Illinois, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of the Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Inquiry Center, APA–230, 800 Independence Avenue, S.W., Washington, DC 20591, or by calling (202) 267–3484. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2A, which describes the application procedure.

The Proposal

The FAA is considering an amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) to establish Class E airspace Hillsboro, ND; this proposal would provide adequate Class E airspace for operators executing the GPS Runway 16 SIAP and GPS Runway 34 SIAP at Hillsboro Municipal Airport. Controlled airspace extending upward from 700 to 1200 feet AGL is needed to contain aircraft executing the approach. The intended affect of this action is to provide segregation of aircraft using instrument approach procedures in instrument conditions from other aircraft operating in visual weather conditions. The area would be depicted on appropriate aeronautical charts thereby enabling pilots to circumnavigate the area or otherwise comply with IFR procedures. Class E airspace designations for airspace areas extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9D dated September 4, 1996, and effective September 16, 1996, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document would be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore this proposed regulation—(1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this proposed rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) as follows:

PART 71—[Amended]

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 14 CFR 11.69.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9D, Airspace Designations and Reporting Points, dated September 4, 1996, and effective September 16, 1996, is amended as follows:

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * *

AGL NDE5 Hillsboro, ND [New]

Hillbsboro Municipal Airport, ND
(lat. 47°21′34″ N, long. 97°03′38″ W)

That airspace extending upward from 700 feet above the surface within a 6.3-mile radius of the Hillsboro Municipal Airport.

* * * * *

Issued in Des Plaines, Illinois on January 13, 1997.

Maureen Woods,

Manager, Air Traffic Division.

[FR Doc. 97–1924 Filed 1–24–97; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 71

[Airspace Docket No. 96–AGL–7]

Establishment of Class E Airspace; Pine Ridge, SD, Pine Ridge Airport

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to establish Class E airspace at Pine Ridge, SD. A Global Positioning System (GPS) standard approach procedure (SIAP) to Runway 30 has been developed for Pine Ridge Airport. Controlled airspace extending upward from 700 to 1200 feet above ground level (AGL) is needed to contain aircraft executing the approach. The intended affect of this proposal is to provide segregation of aircraft using instrument approach procedures in instrument conditions from other aircraft operating in visual weather conditions.

DATES: Comments must be received on or before March 10, 1997.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, Office of the Assistant Chief Counsel, AGL–7, Rules Docket No. 96–AGL–7, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

The official docket may be examined in the Office of the Assistant Chief Counsel, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois. An informal docket may also be examined during normal business hours at the Air Traffic Division, Operations Branch, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois.

FOR FURTHER INFORMATION CONTACT: John A. Clayborn, Air Traffic Division, Operations Branch, AGL–530, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (847) 294–7568.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments as self-addressed, stamped postcard on which the following statement is made: ''Comments to Airspace Docket No. 96–AGL–7.'' The postcard will be date/time stamped and returned to the commenter. All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination in the Rules Docket, FAA, Great Lakes Region, Office of the Assistant Chief Counsel, 2300 East Devon Avenue, Des Plaines, Illinois, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of the Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Inquiry Center, APA–230, 800 Independence Avenue, S.W., Washington, DC 20591, or by calling (202) 267–3484. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2A, which describes the application procedure.

The Proposal

The FAA is considering an amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) to establish Class E airspace at Pine Ridge, SD; this proposal would provide adequate Class E airspace for operators executing the GPS Runway 30 SIAP at Pine Ridge Airport. Controlled airspace extending upward from 700 to 1200 feet AGL is needed to contain aircraft executing the approach. The intended affect of this action is to provide segregation of aircraft using instrument approach procedures in instrument conditions from other aircraft operating in visual weather conditions. The area would be depicted on appropriate aeronautical charts thereby enabling pilots to circumnavigate the area or otherwise comply with IFR procedures. Class E airspace designations for airspace areas extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9D dated September 4, 1996, and effective September 16, 1996, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document would be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore this, proposed regulation—(1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this proposed rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) as follows:

PART 71—[Amended]

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 14 CFR 11.69.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9D, Airspace Designations and Reporting Points, dated September 4, 1996, and effective September 16, 1996, is amended as follows:

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

AGL SD E5 Pine Ridge, SD [New]

Pine Ridge Airport, SD
(lat. 43°01′21″ N, long. 102°30′40″W)

That airspace extending upward from 700 feet above the surface within a 10.9-mile radius of Pine Ridge Airport.

* * * * *

Issued in Des Plaines, Illinois on January 13, 1997.

Maureen Woods,

Manager, Air Traffic Division.

[FR Doc. 97–1926 Filed 1–24–97; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 589

[Docket No. 96N–0135]

RIN 0901–AA91

Proposed Rule to Prohibit Animal Proteins From Ruminants and Minks From Use in Ruminant Feed; Notice of Open Public Forums

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of public forum.

SUMMARY: The Food and Drug Administration (FDA) is announcing two open public forums to discuss the

notice of proposed rulemaking that provides that animal protein derived from ruminant and mink tissues is not generally recognized as safe for use in ruminant feeds and is a food additive under the Federal Food, Drug, and Cosmetic Act. As such, without a food additive regulation or an exemption, its use in ruminant feeds would be prohibited. While the proposed rule is a preventive measure, the public forums are not preventive measures. Issuance of the proposed rule is part of a series of preventive measures that the agency has taken to protect animals from transmissible degenerative neurological diseases and to minimize any potential risk that such diseases could be transmitted from animal to humans. The agency's proposal and related policy issues will be discussed at the forums. The forums are intended to provide an opportunity for comments from industry and consumers.

DATES: The public forums are scheduled as follows:

1. Tuesday, February 4, 1997, from 1 p.m. to 4 p.m., St. Louis, MO.
2. Thursday, February 13, 1997, from 9 a.m. to 12 m., Washington, DC.

ADDRESSES: The open public forums will be held at the following locations:

St. Louis—Henry VIII Hotel and Conference Center, 4690 North Lindbergh Blvd., St. Louis, MO, 314–731–3040.

Washington—Holiday Inn—Capitol, 550 C St. SW., Washington, DC, 202–479–4000.

FOR FURTHER INFORMATION CONTACT:

Regarding the St. Louis, MO, open public forum: Charles M. Breen, Office of Regulatory Affairs (HFR–SW400), Food and Drug Administration, 12 Sunnen Dr., suite 122, St. Louis, MO 63143, 314–645–1167, FAX 314–645–2969.

Regarding the Washington, DC, open public forum: Susan Mackie, Office of Consumer Affairs (HFE–3), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–4407, FAX 301–443–9767.

Those persons interested in attending the St. Louis, MO, open public forum, should register by faxing their name(s), firm name/affiliation, address, telephone and facsimile numbers to Charles M. Breen at 314–645–2969, or send a request for registration by mail to Charles Breen (address above).

Those persons interested in attending the Washington, DC, open public forum, should register by calling Susan Mackie at 301–827–4407 or by faxing or mailing their name(s), firm name/affiliation, address, telephone and facsimile numbers to Susan Mackie (address above).

Persons unable to attend this open public forum, or those who wish to submit their questions or comments in advance of this open public forum, should submit them to the appropriate contact person listed above.

There is no registration fee for these open public forums. However, due to space limitations, preregistration is required and early registration is recommended.

SUPPLEMENTARY INFORMATION: In the Federal Register of January 3, 1997 (62 FR 552), FDA published a notice of proposed rulemaking that would prohibit using rendered animal protein from mink and from ruminants, animals such as cows, sheep, and goats, in the manufacture of ruminant feeds. FDA will hold two open public forums to discuss its proposal, which is the latest in a series of preventive measures, including a voluntary industry moratorium, that FDA, other Federal agencies, and industry have taken to protect animals from transmissible degenerative neurological diseases and to minimize any potential risk that such diseases could be transmitted from animals to humans. These animal diseases are known as transmissible spongiform encephalopathies (TSE's). Bovine spongiform encephalopathy (BSE) is among the more commonly known of these diseases.

FDA's proposed regulation would prohibit the use of rendered ruminant and mink proteins in feed intended for ruminants. In addition to prohibiting products with the potential to spread TSE's, the proposed rule also requires process and control systems to ensure that ruminant feed does not contain the prohibited tissues.

The agency's proposal and related policy issues will be discussed at the forums. The forums are intended to provide an opportunity for feedback and comments from industry and consumers.

The St. Louis, MO, open public forum is intended primarily to discuss the interests of renderers, animal feed manufacturers, and feedlot operators. The agency will be prepared to consider questions related to the economic assessment. The Washington, DC, open public forum is intended primarily to discuss the interests of consumers and the general public.

Full transcripts of each open public forum will be made. The transcripts will be incorporated into the administrative record of the proposed rule and placed on file in the public docket (Docket No. 96N–0135) for the proposal.

Persons submitting comments or (questions) at the open public forums are encouraged to submit their comments in advance in writing. Such comments will be placed in the public docket for the proposed rule and presented at the open public forums. Persons unable to attend the forums are also encouraged to submit comments on the proposal to the public docket, and any such questions or comments submitted in advance will be presented at the forums.

Persons making comments at the forums should limit their remarks to a few minutes and if possible to fewer than 5 minutes to encourage dialogue during the forum and to permit as many people as possible to participate. Persons may submit expanded versions of their oral comments in writing to the public docket.

Dated: January 22, 1997.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 97–1987 Filed 1–23–97; 11:31 am]

BILLING CODE 4160–01–F

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG–254394–96]

RIN 1545–AU92

Section 42(d)(5) Federal Grants

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking by cross-reference to temporary regulations.

SUMMARY: In the Rules and Regulations section of this issue of the Federal Register, the IRS is issuing temporary regulations with respect to the low-income housing tax credit relating to the application of section 42(d)(5) to certain rental assistance programs under section 42(g)(2)(B)(i). The text of those temporary regulations also serves as the text of these proposed regulations.

DATES: Written comments and requests for a public hearing must be received by April 28, 1997.

ADDRESSES: Send submissions to: CC:DOM:CORP:R (REG–254394–96), room 5226, Internal Revenue Service, POB 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand delivered between the hours of 8 a.m. and 5 p.m. to: CC:DOM:CORP:R (REG–254394–96), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC. Alternatively,

taxpayers may submit comments electronically via the Internet by selecting the ''Tax Regs'' option on the IRS Home Page, or by submitting comments directly to the IRS Internet site at http://www.irs.ustreas.gov/prod/tax_regs/comments/html.

FOR FURTHER INFORMATION CONTACT: Christopher J. Wilson (202) 622–3040 (not a toll-free call).

SUPPLEMENTARY INFORMATION:

Background

Temporary regulations published in the Rules and Regulations section of this issue of the Federal Register provide rules with respect to the low-income housing tax credit relating to the application of section 42(d)(5) to certain rental assistance programs under section 42(g)(2)(B)(i). The text of those temporary regulations also serves as the text of these proposed regulations. The preamble to the temporary regulations explains the temporary regulations.

Special Analyses

It has been determined that this notice of proposed rulemaking is not a significant regulatory action as defined in EO 12866. Therefore, a regulatory assessment is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations and, because these regulations do not impose on small entities a collection of information requirement, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Therefore, a Regulatory Flexibility Analysis is not required. Pursuant to section 7805(f) of the Internal Revenue Code, this notice of proposed rulemaking will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Comments and Requests for a Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any written comments (a signed original and eight (8) copies) that are submitted timely to the IRS. All comments will be available for public inspection and copying. A public hearing may be scheduled if requested in writing by a person that timely submits written comments. If a public hearing is scheduled, a notice of the date, time, and place for the hearing will be published in the Federal Register.

Drafting Information

The principal author of these regulations is Christopher J. Wilson, Office of Assistant Chief Counsel (Passthroughs and Special Industries). However, other personnel from the IRS and Treasury Department participated in their development.

List of Subjects 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Proposed Amendments to the Regulations

Accordingly, 26 CFR part 1 is proposed to be amended as follows:

PART 1—INCOME TAXES

Paragraph 1. The authority citation for part 1 is amended by adding an entry in numerical order to read in part as follows:

Authority: 26 U.S.C. 7805 * * *

Section 1.42–16 also issued under 26 U.S.C. 42(n); * * *

Par. 2. Section 1.42–16 is added to read as follows:

§ 1.42–16 Eligible basis reduced by federal grants.

[The text of this proposed section is the same as the text of § 1.42–16T published elsewhere in this issue of the Federal Register].

Margaret Milner Richardson,

Commissioner of Internal Revenue.

[FR Doc. 97–1791 Filed 1–24–97; 8:45 am]

BILLING CODE 4830–01–U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 441

[FRL–5680–9]

Public Meeting on the Effluent Limitations Guidelines and Standards for the Industrial Laundries (IL) Industry

AGENCY: Environmental Protection Agency (EPA).

ACTION: Public meeting.

SUMMARY: The Office of Science and Technology (OST) within EPA's Office of Water (OW) is conducting a public meeting prior to proposing effluent limitations guidelines and standards for the industrial laundries industry. The EPA intends to propose effluent limitations guidelines and standards later this year, and this is the only public meeting that the Agency plans to sponsor prior to proposal. The meeting is intended to be a forum, in which EPA can report on the status of the regulatory development and in which interested parties can provide information and ideas to the Agency on key technical, scientific, economic, and other issues.

DATES: The public meeting will be held on Tuesday, March 4, 1997, from 9:30 a.m. to 2:30 p.m.

ADDRESSES: The meeting will be held at the National Wildlife Visitor Center Auditorium, U.S. Fish and Wildlife Service, Patuxent Research Refuge, 10901 Scarlet Tanager Loop, Laurel, MD.

FOR FURTHER INFORMATION CONTACT: Susan Burris, Engineering and Analysis Division (4303), U.S. EPA, 401 M Street SW., Washington, DC 20460. Telephone (202) 260–5379, fax (202) 260–7185, or E-Mail burris.susan@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: EPA is developing effluent limitations guidelines and standards for the Industrial Laundries Category under authority of the Clean Water Act (33 U.S.C. 1251 et seq.). The Industrial Laundries Category includes facilities that launder or dry-clean industrial garments and uniforms, shop towels, printer towels, mops, mats, and dust control items. The items that are laundered are owned either by the laundry facilities or their customers. Often these facilities wash other items that are not classified as industrial laundry items, such as linen supply garments, linen flatwork, health-care items, and other miscellaneous items.

The public meeting will include a discussion of the scope of the regulation, subcategorization, summary of industry information, preliminary plans for technology-based regulatory options, and other regulatory issues. The meeting will not be recorded by a reporter or transcribed for inclusion in the record for the Industrial Laundries Category rulemaking. Documents relating to the topics mentioned above and a more detailed agenda will be available at the meeting.

Driving directions to the National Wildlife Visitor Center: Take the Baltimore-Washington Parkway (I–295) to the exit for the Beltsville Agriculture Research Center (Powder Mill Road (East)). Go approximately 2.0 miles and turn right into Visitor Center entrance (Scarlett Tanager Loop). Go 1.4 miles to Visitor Center Parking area.

Dated: January 17, 1997.

Tudor Davies,

Director, Office of Science and Technology.

[FR Doc. 97–1878 Filed 1–24–97; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 97–20, RM–8979]

Radio Broadcasting Services; Yarnell, AZ

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition for rule making filed on behalf of Yarnell Communications seeking the allotment of FM Channel 258A to Yarnell, Arizona, as that locality's first local aural transmission service. Petitioner is requested to provide additional information to establish Yarnell's status as a community for allotment purposes. Coordinates used for this proposal are 34–13–18 and 112–44–48. As Yarnell, Arizona, is located within 320 kilometers (199 miles) of the Mexico border, the Commission must obtain the concurrence of the Mexican government in this proposal.

DATES: Comments must be filed on or before March 10, 1997, and reply comments on or before March 25, 1997.

ADDRESSES: Secretary, Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner's counsel, as follows: Henry E. Crawford, Esq., Law Offices of Henry E. Crawford, Suite 900, 1150 Connecticut Avenue, NW., Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 97–20, adopted January 10, 1997, and released January 17, 1997. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Services, Inc., 2100 M Street, NW., Suite 140, Washington, DC 20037, (202) 857–3800.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, See 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 97–1930 Filed 1–24–97; 8:45 am]

BILLING CODE 6712–01–P

47 CFR Part 73

[MM Docket No. 97–5, RM–8954]

Radio Broadcasting Services; Thorndale, TX

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition by Jackson Lake Broadcasting Company requesting the allotment of Channel 257A at Thorndale, Texas, as the community's first local FM service. Channel 257A can be allotted to Thorndale in compliance with the Commission's minimum distance separation requirements with a site restriction of 13.8 kilometers (8.6 miles) south in order to avoid a short-spacing conflict with the licensed operation of Station WACO(FM), Channel 260C, Waco, Texas. The coordinates for Channel 257A at Thorndale are 30–29–29 and 97–11–21.

DATES: Comments must be filed on or before March 10, 1997, and reply comments on or before March 25, 1997.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Henry E. Crawford, Esq., 1150 Connecticut Avenue, N.W., Suite 900, Washington, D.C. 20036 (Counsel for petitioner).

FOR FURTHER INFORMATION CONTACT: Pam Blumenthal, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 97–5, adopted January 10, 1997, and released January 17, 1997. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Center (Room 239), 1919 M Street, NW., Washington, D.C. The complete text of this decision may also be purchased from the Commission's copy contractor, ITS, Inc., (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, D.C. 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 97–1931 Filed 1–24–97; 8:45 am]

BILLING CODE 6712–01–P

47 CFR Part 73

[MM Docket No. 97–4, RM–8923]

Radio Broadcasting Services; Huntsville, UT

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition by South Fork Broadcasting requesting the allotment of Channel 276C3 at Huntsville, Utah, as the community's first local aural transmission service. Channel 276C3 can be allotted to Huntsville in compliance with the Commission's minimum distance separation requirements with a site restriction of 20.2 kilometers (12.6 miles) northeast in order to avoid a short-spacing conflict with the licensed operation of Station KRSP(FM), Channel 278C, Salt Lake City, Utah. The coordinates for Channel 276C3 at Huntsville are 41–25–12 and 111–39–24.

DATES: Comments must be filed on or before March 10, 1997, and reply comments on or before March 25, 1997.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In

addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Henry E. Crawford, Esq., 1150 Connecticut Avenue, N.W., Suite 900, Washington, DC 20036 (Counsel for petitioner).

FOR FURTHER INFORMATION CONTACT: Pam Blumenthal, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 97–4, adopted January 10, 1997, and released January 17, 1997. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Center (Room 239), 1919 M Street, NW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, ITS, Inc., (202) 857–3800, 2100 M Street, NW, Suite 140, Washington, D.C. 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 97–1932 Filed 1–24–97; 8:45 am]

BILLING CODE 6712–01–P

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47 CFR Part 73

[MM Docket No. 97–8, RM–8957]

Radio Broadcasting Services; Amelia, LA

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition by Amelia Broadcasting of Louisiana proposing the allotment of Channel 249C3 at Amelia, Louisiana, as the community's first local aural transmission service. Channel 249C3 can be allotted to Amelia in compliance with the Commission's minimum distance separation requirements with a site restriction of 17.6 kilometers (11.0 miles) south in order to avoid a short-spacing conflict with the licensed operation of Station WGGZ(FM), Channel 251C, Baton Rouge, Louisiana, at coordinates 29–30–32 NL; 91–06–43 WL.

DATES: Comments must be filed on or before March 10, 1997, and reply comments on or before March 25, 1997.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Henry E. Crawford, Esq., 1150 Connecticut Avenue, N.W., Suite 900, Washington, DC 20036 (Counsel for petitioner).

FOR FURTHER INFORMATION CONTACT: Pam Blumenthal, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 97–8, adopted January 10, 1997, and released January 17, 1997. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Center (Room 239), 1919 M Street, NW, Washington, D.C. The complete text of this decision may also be purchased from the Commission's copy contractor, ITS, Inc., (202) 857–3800, 2100 M Street, NW, Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 97–1933 Filed 1–24–97; 8:45 am]

BILLING CODE 6712–01–P

47 CFR Part 73

[MM Docket No. 97–9, RM–8929]

Radio Broadcasting Services; New Boston, TX

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition filed by Dixie Broadcasting Company seeking the allotment of Channel 286A to New Boston, Texas, as the community's third local FM service. Channel 286A can be allotted to New Boston in compliance with the Commission's minimum distance separation requirements with a site restriction of 8.8 Kilometers (5.5 miles) west in order to avoid a short-spacing conflict with the licensed operation of Station KTOY (FM), Channel 284A, Texarkana, Arkansas. The coordinates for Channel 286A at New Boston are 33–27–41 and 94–31–00.

DATES: Comments must be filed on or before March 10, 1997, and reply comments on or before March 25, 1997.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Henry E. Crawford, Esq., 1150 Connecticut Avenue, NW, Suite 900, Washington, DC 20036 (Counsel for petitioner).

FOR FURTHER INFORMATION CONTACT: Pam Blumenthal, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 97–9, adopted January 10, 1997, and released January 17, 1997. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Center (Room 239), 1919 M Street, NW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, ITS, Inc., (202) 857–3800, 2100 M Street, NW, Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments.

See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 97–1934 Filed 1–24–97; 8:45 am]

BILLING CODE 6712–01–M

47 CFR Part 73

[MM Docket No. 97–15, RM–8927]

Radio Broadcasting Services; Homedale, ID

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition for rule making filed on behalf of Homedale Broadcasting Company requesting the allotment of Channel 292C to Homedale, Idaho, as that community's first local aural transmission service. Coordinates used for Channel 292C at Homedale are 43–33–13 and 117–22–10.

DATES: Comments must be filed on or before March 10, 1997, and reply comments on or before March 25, 1997.

ADDRESSES: Secretary, Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner's counsel, as follows: Henry E. Crawford, Esq., Law Offices of Henry E. Crawford, 1150 Connecticut Avenue, NW., Suite 900, Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 97–15, adopted January 10, 1997, and released January 17, 1997. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Services, Inc., 2100 M Street, NW., Suite 140, Washington, DC 20037, (202) 857–3800.

Provisions of the Regulatory Flexibility Act of l980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all ex parte contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible ex parte contacts.

For information regarding proper filing procedures for comments, See 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 97–1935 Filed 1–24–97; 8:45 am]

BILLING CODE 6712–01–P

47 CFR Part 73

[MM Docket No. 97–3, RM–8945]

Radio Broadcasting Services; Bend, OR

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition filed by Sunriver Broadcasting Company seeking the allotment of Channel 259A to Bend, Oregon, as the community's sixth local commercial FM service. Channel 259A can be allotted to Bend in compliance with the Commission's minimum distance separation requirements without the imposition of a site restriction, at coordinates 44–03–30 North Latitude and 121–18–30 West Longitude.

DATES: Comments must be filed on or before March 10, 1997, and reply comments on or before March 25, 1997.

ADDRESSES: Federal Communications Commission, Washington, DC. 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Henry E. Crawford, Esq., 1150 Connecticut Avenue, NW., Suite 900, Washington, DC. 20036 (Counsel to petitioner).

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 97–3, adopted January 10, 1997, and released January 17, 1997. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Services, Inc., (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 97–1936 Filed 1–24–97; 8:45 am]

BILLING CODE 6712–01–P

47 CFR Part 73

[MM Docket No. 97–6, RM–8944]

Radio Broadcasting Services; Beatty, NV

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition filed by Beatty Mountain Broadcasting Company seeking the allotment of Channel 262A to Beatty, Nevada, as the community's first local aural transmission service. Channel 262A can be allotted to Beatty in compliance with the Commission's minimum distance separation requirements without the imposition of a site restriction, at coordinates 36–54–24 North Latitude and 116–45–36 West Longitude.

DATES: Comments must be filed on or before March 10, 1997, and reply comments on or before March 25, 1997.

ADDRESSES: Federal Communications Commission, Washington, DC. 20554. In

addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Henry E. Crawford, Esq., 1150 Connecticut Avenue, NW., Suite 900, Washington, DC. 20036 (Counsel to petitioner).

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 97–6, adopted January 10, 1997, and released January 17, 1997. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Services, Inc., (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 97–1937 Filed 1–24–97; 8:45 am]

BILLING CODE 6712–01–P

47 CFR Part 73

[MM Docket No. 97–17, RM–8942]

Radio Broadcasting Services; Steamboat Springs, CO

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition for rule making filed on behalf of Colorado Alpine Broadcasting Company requesting the allotment of Channel 255A to Steamboat Springs, Colorado, as its second local FM transmission service. Coordinates used for Channel 255A at Steamboat Springs are 40–29–12 and 106–49–54.

DATES: Comments must be filed on or before March 10, 1997, and reply comments on or before March 25, 1997.

ADDRESSES: Secretary, Federal Communications Commission, Washington, DC. 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner's counsel, as follows: Henry E. Crawford, Esq., Law Offices of Henry E. Crawford, 1150 Connecticut Avenue, NW., Suite 900, Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 97–17, adopted January 10, 1997, and released January 17, 1997. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Services, Inc., 2100 M Street, NW., Suite 140, Washington, DC 20037, (202) 857–3800.

Provisions of the Regulatory Flexibility Act of l980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, See 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 97–1938 Filed 1–24–97; 8:45 am]

BILLING CODE 6712–01–F

47 CFR Part 73

[MM Docket No. 97–16, RM–8932]

Radio Broadcasting Services; Nashville, AR

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition for rule making filed on behalf of Temperance Broadcasting Company requesting the allotment of Channel 245A to Nashville, Arkansas, as its second local FM transmission service. Coordinates used for Channel 245A at Nashville are 33–59–12 and 93–51–54.

DATES: Comments must be filed on or before March 10, 1997, and reply comments on or before Maarch 25, 1997.

ADDRESSES: Secretary, Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner's counsel, as follows: Henry E. Crawford, Esq., Law Offices of Henry E. Crawford, 1150 Connecticut Avenue, NW., Suite 900, Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 97–16, adopted January 10, 1997, and released January 17, 1997. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Services, Inc., 2100 M Street, NW., Suite 140, Washington, DC 20037, (202) 857–3800.

Provisions of the Regulatory Flexibility Act of l980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex*parteacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex*parteacts.

For information regarding proper filing procedures for comments, See 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 97–1939 Filed 1–24–97; 8:45 am]

BILLING CODE 6712–01–F

47 CFR Part 73

[MM Docket No. 97–19, RM–8978]

Radio Broadcasting Services; Williams, CA

AGENCY: Federal Communications Commission.

ACTION: Proposed Rule.

SUMMARY: This document requests comments on a petition for rule making filed on behalf of Spring Creek Broadcasting Company requesting the allotment of Channel 256A to Williams, California, as that community's first local aural transmission service. Coordinates used for Channel 256A at Williams are 39–04–54 and 122–14–06.

DATES: Comments must be filed on or before March 10, 1997, and reply comments on or before March 25, 1997.

ADDRESSES: Secretary, Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner's counsel, as follows: Henry E. Crawford, Esq., Law Offices of Henry E. Crawford, 1150 Connecticut Avenue, NW., Suite 900, Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 97–19, adopted January 10, 1997, and released January 17, 1997. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Services, Inc., 2100 M Street, NW., Suite 140, Washington, DC 20037, (202) 857–3800.

Provisions of the Regulatory Flexibility Act of l980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex*parteacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex*parteacts.

For information regarding proper filing procedures for comments, See 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 97–1940 Filed 1–24–97; 8:45 am]

BILLING CODE 6712–01–F

47 CFR Part 73

[MM Docket No. 97–13, RM–8915]

Radio Broadcasting Services; Franklin, ID

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition for rule making filed by Mountain Tower Broadcasting requesting the allotment of Channel 249A to Franklin, Idaho, as that community's first local aural transmission service. Coordinates used for Channel 249A at Franklin are 42–06–39 and 111–46–40.

DATES: Comments must be filed on or before March 10, 1997, and reply comments on or before March 25, 1997.

ADDRESSES: Secretary, Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, as follows: Mountain Tower Broadcasting, Attn: Victor A. Michael, Jr., President, c/o Magic City Media, 1912 Capitol Avenue, Suite 300, Cheyenne, WY 82001.

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 97–13, adopted January 10, 1997, and released January 17, 1997. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Services, Inc., 2100 M Street, NW., Suite 140, Washington, DC 20037, (202) 857–3800.

Provisions of the Regulatory Flexibility Act of l980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, See 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 97–1941 Filed 1–24–97; 8:45 am]

BILLING CODE 6712–01–F

47 CFR Part 73

[MM Docket No. 97–18, RM–8943]

Radio Broadcasting Services; Durango, CO

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition for rule making filed on behalf of Range Broadcasting Company requesting the allotment of Channel 243A to Durango, Colorado, as its fourth local FM transmission service. Coordinates used for Channel 243A at Durango are 37–16–57 and 107–52–36.

DATES: Comments must be filed on or before March 10, 1997, and reply comments on or before March 25, 1997.

ADDRESSES: Secretary, Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner's counsel, as follows: Henry E. Crawford, Esq., Law Offices of Henry E. Crawford, 1150 Connecticut Avenue, NW., Suite 900, Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 97–18, adopted January 10, 1997, and released January 17, 1997. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's

Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Services, Inc., 2100 M Street, NW., Suite 140, Washington, DC 20037,(202) 857–3800.

Provisions of the Regulatory Flexibility Act of l980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, See 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 97–1942 Filed 1–24–97; 8:45 am]

BILLING CODE 6712–01–F

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

49 CFR Parts 387, 390, 391, 392, 395, 396, and 397

[FHWA Docket No. MC–97–3]

RIN 2125–AD72

Review of the Federal Motor Carrier Safety Regulations; Regulatory Removals and Substantive Amendments

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of proposed rulemaking (NPRM); request for comments.

SUMMARY: This document requests comments on the intent of the FHWA to remove, amend, and redesignate certain regulations concerning financial responsibility; general applicability and definitions; accident recordkeeping requirements; qualifications of drivers; driving of commercial motor vehicles; hours of service of drivers; inspection, repair, and maintenance; and the transportation of hazardous materials. These regulations are obsolete, redundant, unnecessary, ineffective, burdensome, more appropriately regulated by State and local authorities, better addressed by company policy, in need of clarification, or more appropriately contained in another section. This action is consistent with the FHWA's Zero Base Regulatory Review and the President's Regulatory Reinvention Initiative.

DATES: Comments must be received no later than March 28, 1997.

ADDRESSES: All signed, written comments should refer to the docket number that appears at the top of this document and must be submitted to HCC–10, room 4232, Office of the Chief Counsel, Federal Highway Administration, 400 Seventh Street, SW., Washington, DC 20590. All comments received will be available for examination at the above address from 8:30 a.m. to 3:30 p.m., e.t., Monday through Friday, except Federal holidays. Those desiring notification of receipt of comments must include a self-addressed, stamped postcard/envelope.

FOR FURTHER INFORMATION CONTACT: Mr. Peter C. Chandler, Office of Motor Carrier Research and Standards, (202) 366–5763, or Mr. Charles E. Medalen, Office of the Chief Counsel, (202) 366–1354, Federal Highway Administration, Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Background

The first Federal Motor Carrier Safety Regulations (FMCSRs) were promulgated in 1937. The FMCSRs have been amended many times during the past 59 years. In September 1992, the FHWA began a comprehensive multi-year project to develop modern, uniform safety regulations that are up to date, clear, concise, easier to understand, and more performance oriented. This project has been named the Zero Base Regulatory Review.

Upon the announcement of the first four public outreach sessions in the Federal Register on August 18, 1992 [57 FR 37392], the FHWA opened a public docket, MC–92–33, to allow interested parties who were unable to attend an outreach session the opportunity to submit comments and recommendations for improvement of the FMCSRs. After the comment period closed on April 1, 1993, and the comments were analyzed, the FHWA published a notice of proposed rulemaking (NPRM) in the Federal Register on January 10, 1994 [59 FR 1366], and a final rule on November 23, 1994 [59 FR 60319], to remove obsolete or redundant regulations and appendices from the FMCSRs. On July 28, 1995 [60 FR 38739], the FHWA published a final rule which made technical corrections to keep the FMCSRs accurate and up to date. These actions were in response to the Zero Base Regulatory Review.

This rulemaking would remove, amend, and redesignate other regulations and would amend the single regulation which was proposed to be removed in the January 10, 1994, NPRM and was not removed in the November 23, 1994, final rule. The FHWA requests comments on these proposed regulatory changes and recommendations from all interested persons on additional regulatory changes to improve the FMCSRs. The following is a discussion of the proposed amendments to and deletions from the FMCSRs arranged by part and section of the FMCSRs except for divided record authority which is discussed first because the provision is mentioned in two parts of the FMCSRs.

Divided Record Authority

A motor carrier may maintain driver qualification files, records of duty status, and receipts for instructions and documents for drivers of motor vehicles transporting Division 1.1, 1.2, or 1.3 (explosive) materials at a regional or terminal office if the motor carrier has requested and been approved by the Regional Director of Motor Carriers to do so in accordance with §§ 391.51(g) and 395.1(g). Upon approval by the Regional Director of Motor Carriers, the current policy of the FHWA is, generally, to allow a motor carrier to maintain records and documents at only one location per State. Otherwise, records required by subchapter B of title 49, Code of Federal Regulations, must be maintained at a motor carrier's principal place of business except for inspection, repair, and maintenance records which must be maintained where the motor vehicle is either housed or maintained, and the records of a motor carrier's alcohol and controlled substances use and testing program which must be made available for inspection at the principal place of business within two business days after a request has been made by an authorized representative of the FHWA. On November 17, 1993 [58 FR 60734], the FHWA issued regulatory guidance that allows inspection, repair, and maintenance records to be maintained at a location of the motor carrier's choice if a motor vehicle is not housed or maintained at a single location, but these records must be made available within two business days upon request of the FHWA in all cases (§ 396.3, question 5). At the same time, the

FHWA issued regulatory guidance that allows supporting documents for records of duty status and time records for 100 air-mile radius drivers to be maintained at locations other than the principal place of business provided these documents and records can be forwarded to the principal place of business within two business days upon request by a special agent or authorized representative of the FHWA (§ 395.8, question 10 and § 395.1, question 8, respectively). Thus, the FMCSRs and the regulatory guidance establish dissimilar recordkeeping requirements related to the location of required records. The FHWA proposes to establish uniform recordkeeping requirements related to the location of required records.

Specifically, the FHWA proposes to allow motor carriers with multiple terminals or offices to maintain all records required by subchapter B at regional offices or driver work-reporting locations provided records can be produced at the principal place of business or other specified locations within 48 hours upon request by a special agent or authorized representative of the FHWA. Saturdays, Sundays, and Federal holidays would be excluded from the computation of the 48-hour period of time. The FHWA believes that 48 hours is a reasonable period of time to produce records at the principal place of business in consideration of the availability of overnight mail service and facsimile and other electronic transmission equipment. Motor carriers with a single place of business would not be allowed 48 hours to produce records when requested. A motor carrier with multiple terminals or offices would be required to make its records maintained at a given location available for inspection immediately upon request by an FHWA representative who is present at that location. For motor carriers with multiple terminals or offices, a request to forward files, documents, and records maintained at driver work-reporting locations to the principal place of business or other specified location would generally be limited to a specific sample or selection chosen by the FHWA representative. However, all files, documents, and records maintained at regional or terminal offices or driver work-reporting locations may be requested to be forwarded to the principal place of business or other specified location in some cases.

In an effort towards uniformity, the FHWA proposes to make the allowances and limitations for all recordkeeping requirements in subchapter B similar. The FHWA believes there is no sound reason to allow some, but not all, required records to be maintained at locations other than the principal place of business. One thrust of the Zero Base Regulatory Review is to make the FMCSRs more performance oriented to provide motor carriers with increased flexibility in achieving compliance. The proposed removal of divided record authority is a good example of this goal. The FHWA proposes to eliminate divided record authority by removing §§ 391.51(g) and 395.1(g), amending §§ 391.51(f), 395.8(k)(1), and 397.19(b), and by codifying a flexible rule on record retention for motor carriers with multiple terminals or offices in § 390.29. The FHWA also proposes to amend the definition of *principal place of business* in § 390.5 to mean a single location where records required by parts 382, 387, 390, 391, 395, 396, and 397 of this subchapter will be made available for inspection within 48 hours after a request has been made by a special agent or authorized representative of the FHWA.

Part 387—Minimum Levels of Financial Responsibility for Motor Carriers

Part 387 prescribes the minimum levels of financial responsibility required to be maintained by motor carriers of property and passengers. The purpose of these regulations is to ensure that motor carriers maintain an appropriate level of financial responsibility for motor vehicles operated on public highways.

Subpart A—Motor Carriers of Property

Definitions

For-Hire Carriage

There has been confusion within the motor carrier and insurance industries about whether a for-hire motor carrier of a commodity which is exempt from the economic regulations of the Interstate Commerce Commission (ICC), whose remaining functions have now been divided between the Surface Transportation Board of the Department of Transportation and the FHWA, is subject to the requirements in part 387. Under the statutory authority provided by 49 U.S.C. 31139, the Secretary of Transportation is required to prescribe regulations to require minimum levels of financial responsibility for the transportation of property for compensation by motor vehicles in interstate commerce. An exempt commodity motor carrier of property is subject to part 387 when operating a motor vehicle with a gross vehicle weight rating of 10,000 pounds or more in interstate or foreign commerce. The FHWA, therefore, proposes to amend the definitions in § 387.5 to specify that *For-hire carriage* means transportation of property by a common, contract, or exempt commodity motor carrier of property.

Motor Carrier

The FHWA proposes to amend the definition of *motor carrier* to a for-hire or private motor carrier of property in order to make it clear that the term includes an exempt commodity motor carrier of property.

Subpart B—Motor Carriers of Passengers

Applicability

On November 17, 1993 [58 FR 60734], the FHWA issued regulatory guidance that addressed the applicability of the financial responsibility requirements to school bus transportation (§ 387.27, question 4). Specifically, for-hire contractors providing transportation of preprimary, primary, and secondary students for extracurricular trips organized, sponsored, and paid for by the school district are not subject to the financial responsibility requirements. The FHWA proposes to codify this regulatory guidance in § 387.27(b)(4).

Definitions

For-Hire Carriage

On November 17, 1993 [58 FR 60734], the FHWA issued regulatory guidance which clarified the meaning of for-hire passenger transportation (§ 390.5, question 8). To codify this interpretative guidance, the FHWA proposes to amend the definition of *For-hire carriage* in § 387.29. The definition will make it clear that the term means passenger transportation which is generally available to the public at large and is performed for a commercial purpose by a motor carrier which is directly or indirectly compensated, monetarily or otherwise, for the transportation service provided.

Motor Carrier

The FHWA proposes to amend the definition of *motor carrier* to make it clear that the term includes a for-hire motor carrier of passengers which was not subject to economic regulation by the ICC. *Motor carrier* would be amended to mean a person providing for-hire carriage.

Motor Common Carrier

Motor Contract Carrier

The FHWA proposes to remove the terms *motor common carrier* and *motor contract carrier* because the terms would not be used in part 387 after the

amendment of the definition of motor carrier proposed here.

Part 390—Federal Motor Carrier Safety Regulations; General

Part 390 establishes general applicability, definitions, general requirements, and information pertaining to motor carriers and drivers subject to the FMCSRs.

Definitions

Accident

The FHWA proposes to clarify the meaning of the term ''public road'' in the definition of *accident* by the addition of a parenthetical phrase. The term ''public road'' is inclusive of privately owned roads or way which are accessible to the general public such as those within and around stadiums, arenas, shopping malls, residential developments, private schools, parking garages and lots, etc. Therefore, accessibility to the public, not the identity of the owner, is the major factor which determines whether a road or way is public. The FHWA proposes to add the phrase ''(inclusive of privately owned way which are accessible to the general public)'' after the term ''public road'' in the definition of *accident* in § 390.5.

The current definition of the term *accident* would be amended by deleting paragraph (2)(iii), an occurrence in the course of the operation of a passenger car or a multipurpose passenger vehicle (as defined in 49 CFR 571.3) by a motor carrier that is not transporting passengers for hire or hazardous materials of a type and quantity that require the motor vehicle to be marked or placarded in accordance with 49 CFR 177.823. A passenger car or a multipurpose passenger vehicle is limited by the definitions in § 571.3 to a motor vehicle designed for carrying 10 persons or less. The term *accident* is limited by definition to an occurrence involving a commercial motor vehicle. ''Commercial motor vehicle'' is limited by the definition in § 390.5 to a motor vehicle with a gross vehicle weight rating or gross combination weight rating of 10,001 or more pounds, a motor vehicle designed to transport more than 15 passengers including the driver, or a motor vehicle used to transport hazardous materials in a quantity requiring placarding. Therefore, paragraph (2)(iii) would only apply to two types of motor vehicles involved in an *accident*: (1) A motor vehicle which has a gross vehicle weight rating or a gross combination weight rating of 10,001 or more pounds, is designed to carry 10 persons or less, and is involved in the private transportation of passengers; and (2) a passenger car or a multipurpose passenger vehicle operated by a motor carrier that is subject to the accident recordkeeping requirements in § 390.15. The exclusion of these types of motor vehicles from the definition of the term *accident* is unnecessary. The FHWA proposes to remove paragraph (2)(iii) from the definition of the term *accident*.

Commercial Motor Vehicle

The definitions for CMV in §§ 383.5 and 390.5 are written differently in terms of designed passenger capacity and the transportation of hazardous materials, but they have the same meaning. There is no reason for two definitions that have no functional difference. The FHWA, therefore, proposes to amend paragraphs (b) and (c) of the definition of CMV in § 390.5 to read the same as paragraphs (c) and (d), respectively, of the definition of CMV in § 383.5.

Interstate Commerce

The FHWA proposes to add language to the definition of the term *interstate commerce* to clarify that transportation within a single State constitutes interstate commerce if such transportation is the continuation of a through movement which has originated from outside the State or is destined to go outside the State. Whether transportation of property qualifies as interstate commerce depends on the essential character of the movement which is determined by the shipper's fixed and persisting intent at the time of shipment. This intent is ascertained by examining all of the facts and circumstances surrounding the transportation. Consequently, the motor carrier that performs an intrastate portion of an interstate movement is engaged in interstate commerce.

Regularly Employed Driver

The FHWA proposes to replace the term *regularly employed driver* in § 390.5 with the term *single-employer driver* because the FHWA believes that the latter term is more consistent with the intended meaning. In addition, the FHWA proposes to clarify that this proposed term includes a driver who drives a CMV for only one motor carrier on an intermittent, casual, or occasional basis.

Accident Recordkeeping Requirements

Section 390.3(f) provides general exemptions from the FMCSRs for certain types of operations and transportation. Section 390.3(f)(2) exempts from the FMCSRs, unless otherwise specifically provided, transportation performed by the Federal government, a State, any political subdivision of a State, or an agency established under a compact between States that has been approved by the Congress of the United States. However, § 390.3(f)(2) does specifically make the recordkeeping requirements of § 390.15(b) applicable to these governmental entities when engaged in the interstate charter transportation of passengers. The information required to be maintained by § 390.15(b) comprises the accident register. The only other regulations in subchapter B of title 49 which may be applicable to a government entity engaged in the interstate charter transportation of passengers are the Controlled Substances and Alcohol Use and Testing standards in part 382 and the CDL standards in part 383. It makes little sense to require government entities engaged in the interstate charter transportation of passengers to maintain an accident register because these entities are not subject to FHWA compliance reviews and do not receive accident countermeasure assistance. Therefore, the FHWA proposes to remove this recordkeeping requirement from § 390.3(f)(2).

Part 391—Qualifications of Drivers

The primary purpose of part 391 is to ensure that operators of CMVs meet minimum physical qualifications and possess the necessary knowledge, skills, and abilities to operate CMVs safely.

Qualification of Drivers

Driver qualification standards are contained in § 391.11 of the FMCSRs. These standards are minimum requirements that a person must meet to be qualified to drive a CMV in interstate commerce. The driver qualification standards are designed to protect the safety of the motoring public by not permitting a person to drive a CMV who lacks the essential abilities to perform his/her duties safely.

Paragraphs (4) and (5) in § 391.11(b) require a driver to be able to determine whether the cargo he/she transports has been properly distributed and secured and to be familiar with methods and procedures for securing cargo in or on the CMV that he/she drives. Section 383.111(d) requires CMV operators to have knowledge of the principles and procedures for the proper handling of cargo in order to obtain a CDL. Section 392.9(a) prohibits a person from driving a CMV and prohibits a motor carrier from requiring or permitting a person to drive a CMV unless the CMV's cargo is properly distributed and adequately

secured. The FHWA, therefore, proposes to remove §§ 391.11(b)(4) and (5) because these paragraphs are redundant.

The FHWA proposes to remove the completion and furnishing of an application for employment as a CMV driver as driver qualification standards. The FHWA believes that the completion and furnishing of an employment application are not driver qualification standards, but rather necessary and important actions which enable motor carriers to evaluate the competence of applicants for CMV driver positions. The FHWA believes that the failure of a CMV driver to complete and furnish an application to his/her employing motor carrier should not result in the CMV driver being unqualified. The FHWA, therefore, proposes to remove § 391.11(b)(11). This is not intended to affect the responsibility of CMV drivers to complete and furnish the motor carriers that employ them with employment applications containing certain information as required by § 391.21.

Record of Violations

In 1994, the FHWA proposed to remove the requirements related to the record of violations in 49 CFR 391.27 and 391.51(b)(4) [59 FR 1366, January 10, 1994]. In comments to this proposal, a recommendation was made to replace these requirements with similar ones involving an annual inquiry addressed to the State licensing agency regarding drivers' driving records. The FHWA took no action on the record of violations provisions when the final rule was adopted (59 FR 60319, November 23, 1994), but promised further evaluation of the comments.

In December 1994, the National Transportation Safety Board recommended (H–94–12) that the FHWA ''immediately revise the Federal Motor Carrier Safety Regulations to require that motor carriers check a driver's record, both initially and at least annually, with State licensing agencies where the driver works and is licensed.'' The initial inquiry into a driver's driving record to the State licensing agency is already required by § 391.23.

The FHWA now proposes to replace the requirements related to the record of violations with similar requirements involving an annual inquiry to the State licensing agency regarding drivers' driving records. Interested persons are invited to send comments concerning the paperwork burden of this proposal to the Office of Management and Budget (OMB). See the Paperwork Reduction Act section below under Rulemaking Analyses and Notices for further information.

The sections to be removed or amended by this proposal include §§ 391.11(b)(8); 391.25; 391.27; 391.51(b)(3) and (b)(4); 391.51(h)(2) and (h)(3); 391.63(a)(3) and (a)(4); 391.67(a); and 391.68(a). This replacement would create a more effective means for the motor carrier to obtain information about its drivers' moving violations during the previous 12 months because it does not rely upon the memory or honesty of the driver. This amendment would further highway safety by requiring the motor carrier to better verify that its drivers have not lost their driving privileges and have not been otherwise disqualified to drive a CMV. It would also provide a way for a motor carrier to check whether its drivers who are subject to the CDL standards have reported their convictions, disqualifications, and license suspensions, revocations, and cancellations as required by §§ 383.31(a) and 383.33. Many motor carriers or their insurance providers already make such inquiries at least once per year, which is good evidence that the technique is useful in a safety program.

Road Test

Section 391.31 prohibits a driver from driving a CMV unless he/she has successfully completed a road test which is administered by the prospective employing motor carrier. A motor carrier may accept a driver's license as equivalent to a road test if such driver-applicant completed a road test in the type of CMV that the motor carrier intends to assign to him or her, as part of the licensing process. A motor carrier may also accept a certification of road test issued to the driver-applicant within the preceding three years. In any event, a driver-applicant must demonstrate the ability to safely operate the type of CMV to which he/she will be assigned.

In order to obtain a CDL, a driver must pass a driving skills test in a CMV which is comparable to the CMV that the driver expects to operate. At the discretion of a State, either a driving record and previous passage of an acceptable driving skills test or a driving record in combination with certain driving experience may be substituted for the driving skills test (49 CFR 383.77). In all cases, a driver must demonstrate the ability to operate a certain type of CMV safely.

The road test requirements in part 391 are redundant for those driver-applicants who are required to possess a commercial driver's license or who successfully completed a road test, as part of the process of obtaining some other type of license or as required by an employer, in a CMV comparable to the vehicle they own or will drive. Motor carriers are in a better position than the FHWA to decide whether a road test remains an effective method for determining whether driver-applicants who are subject to the driver qualification standards in part 391, but who are not required to possess a commercial driver's license, can safely operate their CMVs. The choice should be made by the prospective employer based on the available information, such as the nature and extent of a driver-applicant's driving experience; the type of driver's license that the driver-applicant possesses; the requirements that the driver-applicant had to meet for such license to be issued; the number and severity of convictions for violations of motor vehicle laws; any denial, revocation, or suspension of any driver's license; and information provided by previous employers. Such information must be obtained by the new employer [49 CFR 391.21 and 391.23]. The removal of the road test would not affect the requirement under 49 CFR 391.11(b)(3) that a driver be able to operate the type of CMV safely that he or she drives by reason of experience, training, or both.

The removal of the requirements related to the road test would reduce the paperwork burden upon motor carriers and make the driver qualification requirements more performance oriented. One thrust of the Zero Base Regulatory Review is to allow motor carriers more flexibility in making their operations safe and achieving compliance.

Motor carriers that want to continue giving road tests to their driver-applicants might prefer the retention of a regulatory requirement. This is not sufficient reason to retain the road test provisions. Motor carriers have long been allowed to require or enforce more stringent safety or health standards than those required by the FMCSRs [49 CFR 390.3(d)].

The FHWA proposes to remove the requirements related to the road test. The sections affected by this proposed removal include §§ 391.11(b)(10), 391.31, 391.33, 391.49(d)(5), 391.51(c)(4), 391.51(d)(2), 391.61, 391.67(c), 391.68(c), 391.69, and 391.73. The FHWA, however, proposes to retain the requirement in § 391.49(d)(5) that a road test be administered to a driver who applies for a waiver of physical disqualification. The FHWA believes that the agency should consider only those driver applicants who have successfully completed a road test

administered by the motor carrier co-applicant or other appropriate person, for a waiver of physical disqualification.

Driver Qualification Files

A driver qualification file contains all required documentation that a driver is qualified to drive a CMV in interstate commerce. These recordkeeping requirements facilitate enforcement of the driver qualification standards by enabling FHWA officials to check compliance quickly. Section 391.51(b)(5) also requires a driver qualification file to include any other matter which relates to the driver's qualifications or ability to drive a CMV safely. The FMCSRs offer no examples or further clarification of what these additional records or documents might include. A recordkeeping requirement for a nonspecific record is not necessary. Furthermore, the rules in part 391 establish minimum qualifications for CMV drivers, and motor carriers are not prohibited from establishing more stringent driver qualification standards. In any case, a motor carrier is permitted to maintain any document in a driver qualification file regardless of the document's relation to driver qualifications. The FHWA proposes to remove § 391.51(b)(5) because it is unclear and unnecessary.

Section 391.51 includes exemptions for several types of drivers who are covered more broadly in Subpart G—Limited Exemptions. The driver qualification file requirements would be easier to understand if § 391.51 contained only the general requirements. A motor carrier could easily determine the driver qualification requirements for a specific driver by comparing § 391.51 with subpart G. The FHWA proposes to amend § 391.51 to exclude all but the general requirements for driver qualification files. This proposal integrates § 391.51(c) into § 391.51(b) and removes paragraphs (d) and (e) of § 391.51.

Intermittent, Casual, or Occasional Drivers

Section 391.63 contains a limited exemption from certain driver qualification requirements for a motor carrier which employs an intermittent, casual, or occasional driver. That term is defined in § 390.5 as a driver who in any period of seven consecutive days is employed or used by more than a single motor carrier. A driver who is employed by a single motor carrier meets the definition of a regularly employed driver in § 390.5 even though he or she might work only intermittently or occasionally. In an effort to promote clarity, the FHWA proposes to replace the confusing term intermittent, casual, or occasional driver in § 390.5 and part 391 with the term multiple-employer driver.

Drivers Furnished by Other Motor Carriers

Section 391.65 contains a limited exemption from the generally applicable driver qualification requirements for a motor carrier that employs a driver who was furnished by another motor carrier if the furnishing motor carrier certifies in writing that the driver is fully qualified to drive a CMV. This written statement, commonly called a qualification certificate, must be substantially in accordance with the form in § 391.65(a)(2). A motor carrier which certifies a driver's qualification is required under § 391.65(c)(2) to recall the unexpired certificate carried by the driver immediately upon learning that the driver is no longer qualified under the regulations in part 391. It is unreasonable to require a motor carrier to recall a qualification certificate because the carrier's only option is to request the driver to return the certificate. If the driver is uncooperative or no longer employed by the motor carrier, there is no obvious means of securing the return of a certificate of qualification.

The FHWA, therefore, proposes to remove § 391.65(c)(2). Instead, a new version of § 391.65(c) would declare that the qualification certificate is no longer valid when the driver leaves the employment of the motor carrier that issued it or is no longer qualified under part 391. The FHWA also proposes to require that a motor carrier which employs a driver furnished by another motor carrier contact the motor carrier which issued the qualification certificate to verify its validity. This would prevent a driver from obtaining employment through use of an invalid or false qualification certificate. The FHWA does not propose to require a motor carrier to make a written record of this contact. This is in not intended to lessen the motor carrier's responsibility to ensure that the driver is fully qualified under the regulations in part 391. Interested persons are invited to send comments concerning the burden of this proposed requirement to obtain information, to the OMB. See the Paperwork Reduction Act section below under Rulemaking Analyses and Notices for further information.

Drivers Operating in Hawaii

Section 391.69 provides a limited exemption from certain driver qualification requirements for drivers who have been regularly employed by motor carriers operating in the State of Hawaii continuously since before April 1, 1975. Section 391.61 provides a limited exemption from the same requirements for drivers who have been regularly employed by motor carriers continuously since before January 1, 1971. For a motor carrier operating in the State of Hawaii, there is considerable overlap between these exemptions. The only difference is that drivers in Hawaii need 4¼ fewer years of continuous employment to qualify for the exemption. Since very few, if any, Hawaiian drivers fall into this category, § 391.69 is largely redundant and the FHWA proposes to remove it. The FHWA requests comments from motor carriers operating in the State of Hawaii as to whether they employ a substantial number of drivers who have been regularly employed for a continuous period which began before April 1, 1975, but on or after January 1, 1971.

Intrastate Drivers of Vehicles Transporting Class 3 Combustible Liquids

Section 391.71 contains a limited exemption from certain driver qualification requirements for drivers who have been regularly employed by motor carriers continuously since July 1, 1975, and who drive a CMV transporting Class 3 combustible liquids in intrastate commerce. On January 24, 1974 [39 FR 2768], Hazardous Materials Docket No. HM–102 established the term combustible liquids which resulted in drivers and motor vehicles engaged in intrastate operations performed by interstate motor carriers becoming subject to the FMCSRs for the first time. Several commenters requested that a permanent exemption be granted from the requirements of part 391, but provided no data in support thereof. Nonetheless, a limited exemption was provided to address the commenters' concerns and minimize the paperwork burden upon the affected intrastate operations of interstate motor carriers, which generally include the local delivery of fuel oil and heating oil.

Section 397.2, adopted in 1971, requires that a motor carrier or other person to whom part 397 applies comply with the FMCSRs (49 CFR parts 390 through 397) when the person is transporting hazardous materials requiring the motor vehicle to be marked or placarded. Section 397.2 was issued jointly under the Explosives and Other Dangerous Articles Act (EODAA) [formerly 18 U.S.C. 831–835] and the Interstate Commerce Act (ICA) [now 49 U.S.C. 31502]. The scope of the EODAA was considered to be broader than that of the ICA and to reach the intrastate

operations of an interstate motor carrier. The EODAA was repealed by the Hazardous Liquid Pipeline Safety Act of 1979 (HLPSA) [49 U.S.C. 60101–60125]. The provisions of the EODAA which were in part the authority for § 397.2 were not continued in the HLPSA.

Section 177.804 of the Hazardous Materials Regulations (HMRs) requires motor carriers and other persons subject to 49 CFR part 177 to comply with the FMCSRs (49 CFR parts 390 through 397) to the extent those regulations apply. Section 177.804 was issued under the authority of the Hazardous Materials Transportation Act (HMTA) [49 U.S.C. 5101 *et seq.*] as a final rule without notice or opportunity for comment. The purpose of the issuance of § 177.804 was to make civil penalties and other enforcement tools of the HMTA applicable to hazardous materials carriers already subject to the FMCSRs. The issuance of § 177.804 merely reissued, under new authority, regulations already in effect. Section 177.804 incorporated the FMCSRs by reference; therefore, the applicability and preemptive effects of the FMCSRs, as reissued under the HMTA, were not changed.

Consequently, no authority exists to support application of parts 390 through 399 of the FMCSRs to a motor carrier or driver who operates a CMV transporting hazardous materials in intrastate commerce whether or not the motor carrier has an interstate operation. Therefore, the FHWA proposes to remove § 391.71. However, the Controlled Substances and Alcohol Use and Testing standards in part 382 and the CDL standards in part 383 apply to drivers and their employers who operate CMVs transporting hazardous materials in a quantity requiring placarding, in intrastate commerce. The financial responsibility standards in part 387 continue to apply to motor carriers operating motor vehicles transporting certain types of hazardous materials, hazardous substances, and hazardous waste in certain types of containment systems, in intrastate commerce.

Private Motor Carrier of Passengers (Business)

Section 391.73 contains a limited exemption from certain driver qualification requirements for a driver who has been a regularly employed driver of a private motor carrier of passengers (business) since July 1, 1994, and continues to be so employed by that motor carrier. With the proposed removal of §§ 391.69 and 391.71, the limited exemptions in subpart G of part 391 would appear in a logical sequence if the limited exemption for drivers of private motor carriers of passengers (business) immediately followed the limited exemption for drivers of private motor carriers of passengers (nonbusiness) in § 391.68. The FHWA proposes to move § 391.73 to § 391.69.

Part 392—Driving of Motor Vehicles

The primary purpose of part 392 is to ensure that CMVs are driven in a safe manner.

Equipment, Inspection and Use

Section 392.7 prohibits a CMV from being driven unless the driver is satisfied that nine specified parts and accessories are in good working order. Section 396.13(a) requires a driver to be satisfied that the CMV is in safe operating condition before driving the CMV. One of these duplicative sections should be removed. The FHWA believes that this requirement is more appropriately contained in § 396.13(a) because it addresses equipment condition more than safe driving.

Section 392.7 also requires a driver to use or make use of the same nine specified parts and accessories when and as needed. All of these parts and accessories including the service brakes, tires, horn, windshield wipers, etc. are essential vehicular components which drivers necessarily use. It is redundant for the FMCSRs to require their use by a driver when and as needed. Therefore, the FHWA proposes to remove § 392.7.

Emergency Equipment; Inspection and Use

Part 393 prohibits the operation of a CMV that is not equipped in accordance with the requirements and specifications therein. Section 393.95 requires all power units to be equipped with specific emergency equipment. Section 392.8 prohibits a CMV from being driven unless the driver is satisfied that the emergency equipment required by § 393.95 is in place and ready for use. Section 396.11 requires a driver to prepare a driver vehicle inspection report (DVIR), which covers emergency equipment, at the completion of each day's work on each motor vehicle operated. If the emergency equipment is found to be defective or missing, this must be shown on the DVIR. Section 396.13 requires the next driver to review the last DVIR and sign it, if defects or deficiencies were noted by the previous driver, to acknowledge that the DVIR was reviewed and that there is a certification that the required repairs have been completed.

Section 392.8 also requires a driver to use or make use of the emergency equipment required by § 393.95 when and as needed. Section 393.95 requires all power units to be equipped with a fire extinguisher (except a driven unit in a driveaway-towaway operation), a spare fuse or other overload protection device if the devices used cannot be reset, for each kind and size used, and one of several combinations of warning devices depending on the date the power unit was equipped with the warning devices. Section 392.22(b) stipulates how warning devices must be placed when a CMV is stopped upon the traveled portion or shoulder of a highway and, therefore, covers how warning devices must be used when needed. It is readily evident to a driver when the use of a fire extinguisher or spare fuse would be necessary in an emergency. It is unnecessary for the FMCSRs to impose a general requirement upon drivers to use or make use of a fire extinguisher or spare fuse when and as needed. The FHWA proposes to remove § 392.8 because the requirement that emergency equipment be in place, ready for use, and used when and as needed is adequately addressed by other sections of the FMCSRs.

Drivers of Trucks and Truck Tractors

Section 392.9(b) requires a driver of a truck or truck tractor to assure himself/herself that the motor vehicle's cargo is properly loaded and secured before driving, inspect the motor vehicle's cargo and its securement within the first 25 miles of driving, reexamine the cargo and its securement at a change of duty status or after 3 hours or 150 miles of driving, and make any necessary adjustments to the cargo or load securing devices. These requirements are highly prescriptive and enforcement of them is laborious and burdensome. The regulations for protection against shifting or falling cargo are contained in subpart I of part 393. Section 392.9(a) prohibits a CMV from being driven unless the CMV's cargo is properly distributed and adequately secured in accordance with subpart I of part 393. Section 392.9(b) is therefore unnecessary. The FHWA proposes to remove § 392.9(b) to provide motor carriers the flexibility to develop their own policies and methods to ascertain that a CMV's cargo is properly distributed and adequately secured in accordance with subpart I of part 393. The proposed removal of § 392.9(b) would not lessen the responsibility of a motor carrier or driver to ensure a CMV's cargo is distributed and secured in a suitable manner to prevent shifting and falling.

Section 392.9(c)(1) prohibits a person from driving a bus unless all standees

are rearward of the standee line. This prohibition would be more appropriately located in subpart G, Prohibited Practices, of part 392 because it addresses unsafe driving more than safe loading. The FHWA proposes to move § 392.9(c)(1) to § 392.62 and entitle the section ''Driving of buses, standee line or bar.''

Section 392.9(c)(2) prohibits a person from driving a bus unless all aisle seats in a bus conform to the requirements of § 393.91. Section 393.91 requires aisle seats in a bus to be securely fastened to the motor vehicle and to automatically fold and leave a clear aisle when unoccupied. Section 393.1 prohibits a CMV from being operated unless it is equipped in accordance with the requirements and specifications contained therein. The FHWA proposes to remove § 392.9(c)(2) because it is redundant.

Section 392.9(c)(3) prohibits a person from driving a bus unless the baggage, freight, and express on the bus is stowed and secured in a safe manner. The FHWA proposes to move § 392.9(c)(3) to § 392.9(b).

Hearing Aid To Be Worn

Section 392.9b requires a driver whose hearing meets the minimum standards in § 391.41(b)(11) only when wearing a hearing aid to wear an operating hearing aid while driving and possess a spare power source. However, if a driver meets the hearing standards only when wearing a hearing aid, § 391.43(g)(1) requires the medical examiner to mark the appropriate place, or to write in the statement ''Qualified only when wearing a hearing aid,'' on the medical examiner's certificate. Therefore, a driver who meets the hearing standards only when wearing a hearing aid is not medically qualified to drive a CMV in interstate commerce when not wearing a hearing aid. A driver who is subject to and does not meet the medical qualification standards is prohibited from driving a CMV in interstate commerce.

Section 392.9b is duplicative of the driver qualification requirements in part 391. The FHWA wants to avoid repetition in the FMCSRs. In addition, the carriage of extra equipment, including spare power sources for hearing aids, to ensure against possible contingencies is best addressed by company policy. The removal of § 392.9b would not affect the requirement that a driver comply with the hearing standards when operating a CMV in interstate commerce. The FHWA proposes to remove § 392.9b.

Railroad Grade Crossing; Stopping Required

Section 392.10 requires the driver of a cargo tank motor vehicle or a CMV transporting passengers, chlorine, or hazardous materials requiring placarding or marking to stop the CMV and ascertain that no train is approaching before crossing a railroad grade. Section 392.10 also prohibits a driver of these types of CMVs from shifting gears when crossing the tracks. The National Transportation Safety Board (NTSB) recommended that the FHWA amend § 392.10 to require CMVs transporting hazardous materials requiring placarding to stop prior to crossing a railroad grade with a warning device only when the device is activated to warn drivers of an approaching train. A warning device includes a functioning highway traffic signal, gate, or a device that uses sound or light(s) to warn drivers of an approaching train. This recommendation would make § 392.10 consistent with the Uniform Vehicle Code. It is not necessary for CMVs to stop immediately prior to crossing a railroad grade when a warning device is present and not activated. The FHWA, therefore, proposes to amend § 392.10 to implement the NTSB's recommendation.

Drawbridges; Slowing Down of Commercial Motor Vehicles

Section 392.13 requires a CMV that is approaching a drawbridge to be driven at a rate of speed which will permit the CMV to be stopped before reaching the lip of the draw and to proceed only when the draw is completely closed. State and local law enforcement officers are responsible for enforcing regulations regarding stopping and slowing of CMVs approaching drawbridges. Section 392.13 is not easily enforced by special agents of the FHWA and is more appropriately addressed by State and local traffic laws. The FHWA proposes to remove § 392.13.

Hazardous Conditions; Extreme Caution

Section 392.14 requires a CMV driver to exercise extreme caution and reduce speed when hazardous conditions adversely affect visibility and traction. If driving conditions become sufficiently dangerous, a CMV driver must discontinue operation of the CMV until driving conditions improve to the point in which the CMV can be safely operated. Whenever compliance with these requirements increases hazard to passengers, however, the CMV may be operated to the nearest point where the safety of the passengers is assured.

These requirements are fundamental safe driving practices and are likely incorporated into the policy manuals of most motor carriers. In addition, most, if not all, State and local authorities prohibit the driving of a motor vehicle at a speed during adverse driving conditions which endangers the safety of the motoring public, even though such speed is at or below the posted speed limit. These requirements are already and more appropriately monitored and enforced by State and local authorities. The FHWA proposes to remove § 392.14.

Required and Prohibited Use of Turn Signals

Section 392.15 contains requirements and prohibitions regarding the use of turn signals which are already and more appropriately monitored and enforced by State and local authorities. The FHWA proposes to remove § 392.15.

Unattended Vehicles; Precautions

Section 392.20 prohibits a CMV from being left unattended until the parking brake has been securely set and all reasonable precautions have been taken to prevent movement. The parking and attendance of a CMV containing no hazardous materials are more appropriately monitored and enforced by State and local authorities. The FHWA proposes to remove § 392.20.

Emergency Signals; Stopped Vehicles

Section 392.22(b) stipulates how warning devices must be placed when a CMV is stopped on the traveled portion or shoulder of a highway. The general rule requires that three warning devices be placed in various directions and at various approximate distances from the stopped CMV. One warning device must be placed at the traffic side of the stopped CMV within 10 feet of the front or rear of the CMV. Another warning device must be placed approximately 100 feet from the stopped CMV in the center of the occupied traffic lane or shoulder in the direction of approaching traffic. A third warning device must be placed approximately 100 feet from the stopped CMV in the center of the occupied lane or shoulder in the opposite direction from the other two warning devices.

The warning devices are often not placed at the correct locations. All three warning devices are often incorrectly placed behind the stopped CMV in the direction toward approaching traffic. The FHWA proposes to amend the regulatory language to promote better understanding of the requirements.

The warning devices are often not placed at the correct distances from the

stopped CMV, in part because of the inability of drivers to determine approximate distances correctly by eye. To address this problem, the FHWA proposes to include the number of paces within parentheses next to the required distances; the proposed rule treats one pace as 2.5 feet. This will aid compliance by providing more guidance on the placement of emergency warning devices.

Emergency Signals; Dangerous Cargoes

Section 392.25 prohibits the use of any flame-producing emergency signal for protecting any CMV transporting Division 1.1, 1.2, and 1.3 explosives; any cargo tank motor vehicle used for the transportation of any flammable liquid or flammable compressed gas, whether loaded or empty; or any CMV using compressed gas as a motor fuel. Section 393.95(g) prohibits any signal produced by a flame, including liquid burning emergency flares, fusees, and oil lanterns, to be carried on the same types of CMVs. It is unnecessary to prohibit the use of such signals when it is already illegal to have them in the CMV. The FHWA proposes to remove § 392.25.

Notification of License Revocation

Section 392.42 requires a driver who receives a notice that his/her license, permit, or privilege to operate a CMV has been revoked, suspended, or withdrawn to notify his/her employing motor carrier of such action before the end of the business day following the day of notification. This notification requirement would be more appropriately included in § 391.15, entitled ''Disqualification of drivers,'' because it addresses the disqualification of drivers more than safe driving. The FHWA proposes to move the notification requirement in § 392.42 to § 391.15(b)(2), and entitle paragraph (b) ''Loss of driving privileges.''

The FHWA requests comments from State driver licensing agencies regarding whether such agencies send a written notification to the employing motor carrier of a driver who has had his/her license, permit, or privilege to operate a CMV revoked, suspended, or withdrawn. For those agencies that do, the FHWA requests information about whether the driver receives a written notification from the agency stating that the agency has sent written notification of the revocation, suspension, or withdrawal to his/her employing motor carrier. Upon consideration of comments in response to this request, the FHWA may add additional language to § 391.15(b) which would exempt a driver of his/her notification requirement if the State licensing agency sends written notification to the driver's employing motor carrier of the revocation, suspension, or withdrawal and also sends written notification to the driver that his/her employing motor carrier was sent such written notification.

Reserve Fuel

Section 392.51 prohibits the supply of fuel for the propulsion of a CMV or the operation of its accessories from being carried on the CMV except in a properly mounted fuel tank or tanks. Section 392.51 is intended to address the carriage of small packages containing fuel when the fuel is intended for consumption by the CMV or its accessories. This practice, however, is not prohibited when the fuel is intended for other purposes such as consumption by machinery being transported. The FHWA believes there is no sound reason to prohibit the carriage of small packages containing fuel in some but not all circumstances. The FHWA proposes to remove § 392.51.

Buses; Fueling

Section 392.52 prohibits the fueling of a bus in a closed building with passengers aboard and limits the number of times a bus may be fueled with passengers aboard to the minimum number of times necessary. The fueling of a bus in a closed building with passengers aboard is an extremely rare occurrence which does not warrant a Federal prohibition. The number of times a bus is fueled with passengers aboard has little effect upon highway safety and is not an issue which is properly addressed by the FMCSRs. The FHWA proposes to remove § 392.52.

Motive Power Not To Be Disengaged

Section 392.68 prohibits a CMV from being driven with the source of motive power disengaged from the driving wheels except when such disengagement is necessary to stop or to shift gears. Such a prohibition is more appropriately monitored and enforced by State and local authorities. The FHWA proposes to remove § 392.68.

Part 395—Hours of Service of Drivers

The primary purpose of part 395 is to prevent a CMV driver from driving while fatigued by establishing hours of service limitations and recordkeeping requirements.

Definitions

On Duty Time

The driver requirements of §§ 392.7 and 392.8 relating to inspection and use of parts, accessories, and emergency equipment is mentioned in paragraph (2) of the definition of *on duty* time in § 395.2. As previously explained, the FHWA proposes to remove §§ 392.7 and 392.8, thereby necessitating a revision of paragraph (2).

Part 396—Inspection, Repair, and Maintenance

The primary purpose of part 396 is to ensure that CMVs are in safe operating condition by requiring motor carriers to systematically inspect, repair, and maintain, or cause to be systematically inspected, repaired, and maintained, all motor vehicles subject to their control.

Driver Vehicle Inspection Reports

Section 396.11(c)(3) requires a legible copy of the last DVIR to be carried on the power unit. The reason for this retention requirement is to enable roadside inspectors to determine whether a DVIR was prepared at the completion of the previous day's work. However, the decision to conduct a roadside inspection of the CMV is not influenced by the presence or absence of a DVIR. Furthermore, failure to have a copy of the last DVIR in the power unit is not an out-of-service violation under the North American Out-of-Service Criteria. The FHWA proposes to remove § 396.11(c)(3) because its benefit is outweighed by the burden imposed. This proposed removal is in no way intended to affect the accessibility of the last DVIR which a driver must review before driving a CMV. The FHWA proposes to amend § 396.13(b) by removing the language that the last DVIR is required to be carried on the power unit.

For ease of reference, a distribution table is provided for the current sections and the proposed sections as follows:

Current section	Proposed section
387.5	387.5 definitions revised.
For-hire carriage	Revised.
Motor carrier	Revised.
387.27	387.27(b)(4) added.

Current section	Proposed section
387.29	387.29 definitions revised.
For-hire carriage	Revised.
Motor carrier	Revised.
Motor common carrier	Removed.
Motor contract carrier	Removed.
390.3(f)(2)	Revised.
390.5	390.5 definitions revised.
Accident	Revised.
Commercial motor vehicle	Revised.
Interstate commerce	Revised.
Intermittent, casual, or occasional driver	Renamed: Multiple-employer driver.
Principal place of business	Revised.
Regularly employed driver	Renamed: Single-employer driver.
	390.29 added.
391.11(b)(4)	Removed.
391.11(b)(5)	Removed.
391.11(b)(6)	391.11(b)(4).
391.11(b)(7)	391.11(b)(5).
391.11(b)(8)	Removed.
391.11(b)(9)	391.11(b)(6).
391.11(b)(10)	Removed.
391.11(b)(11)	Removed.
391.15(b)	391.15(b) (1) and (2).
391.25	Revised.
391.27	Removed and reserved.
391.31	Removed and reserved.
391.33	Removed and reserved.
391.49(d)(5)	Revised.
391.51(a)	Revised.
391.51(b)	Revised.
391.51(c)	Removed.
391.51(d)	Removed.
391.51(e)	Removed.
391.51(f)	391.51(c) and revised.
391.51(g)	Removed.
391.51(h)	391.51(d) and revised.
391.61	Revised.
391.63	Revised.
391.65(b)	Revised.
391.65(c)	Revised.
391.67	Revised.
391.68	Revised.
391.69	Removed.
391.71	Removed and reserved.
391.73	391.69 and revised.
392.7	Removed and reserved.
392.8	Removed and reserved.
392.9(b)	Removed.
392.9(c)(1)	392.62.
392.9(c)(2)	Removed.
392.9(c)(3)	392.9(b).
392.9b	Removed and reserved.
392.10(b)(1)	392.10(b)(3).
392.10(b)(3)	391.10(b)(1) and revised.
392.13	Removed and reserved.
392.14	Removed and reserved.
392.15	Removed and reserved.
392.20	Removed and reserved.
392.22(b)(1)	Revised.
392.25	Removed and reserved.
392.42	Removed and reserved.
392.51	Removed and reserved.
392.52	Removed and reserved.
392.62	Added.
392.68	Removed and reserved.
395.1(g)	Removed.
395.1(h)	395.1(g).
395.1(i)	395.1(h).
395.1(j)	395.1(i).
395.1(k)	395.1(j).
395.2	395.2 definitions revised.
On-duty time	Revised.
395.8(k)(1)	Revised.
396.11(b)	Revised.

Current section	Proposed section
396.11(c)	Revised.
396.11(c)(1)	Revised.
396.11(c)(2)	Revised.
396.11(c)(3)	Removed.
396.11(d)	Revised.
396.13(b)	Revised.
397.19(b)	Revised.

Rulemaking Analyses and Notices

All comments received before the close of business on the comment closing date indicated above will be considered and will be available for examination in the docket at the above address. Comments received after the comment closing date will be filed in the docket and will be considered to the extent practicable, but the FHWA may issue a final rule at any time after the close of the comment period. In addition to late comments, the FHWA will also continue to file relevant information in the docket as it becomes available after the comment closing date, and interested persons should continue to examine the docket for new material.

Executive Order 12866 (Regulatory Planning and Review) and DOT Regulatory Policies and Procedures

The FHWA has determined that this regulatory action is not significant under Executive Order 12866 or regulatory policies and procedures of the DOT. It is anticipated that the economic impact of this rulemaking will be minimal. In addition, this regulatory action is not expected to cause an adverse effect on any sector of the economy. The regulations which are the subject of this proposed rule are obsolete, redundant, unnecessary, ineffective, burdensome, more appropriately regulated by State and local authorities, better addressed by company policy, in need of clarification, or more appropriately contained in another section. Thus, this rulemaking will actually lessen the burden imposed by these regulations which will be removed, amended, or redesignated as a result. No serious inconsistency or interference with another agency's actions or plans will result because this rulemaking deals exclusively with the FMCSRs. In addition, the rights and obligations of recipients of Federal grants will not be materially affected by this regulatory action. In light of this analysis, the FHWA finds that a full regulatory evaluation is not required.

Regulatory Flexibility Act

In compliance with the Regulatory Flexibility Act (5 U.S.C. 601–612), the FHWA has evaluated the effects of this proposed rule on small entities. The FHWA believes that this proposed rule would not have a significant economic impact on a substantial number of small entities. The FHWA intends to further evaluate the economic consequences of this proposal on small entities in light of the comments received in response to this notice.

For the most part, this rulemaking would merely lessen the burden of complying with the FMCSRs by making these regulations clearer and less redundant. As a result, all entities which are subject to these regulations would benefit, regardless of the size of the entity. This regulatory action will also facilitate compliance with the FMCSRs by removing regulations on certain areas that are more appropriately addressed by company policy. This action would thus provide motor carriers with more flexibility to pursue their own attempts at furthering the safety of their operations.

Executive Order 12612 (Federalism Assessment)

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that this proposed rule does not have sufficient federalism impacts to warrant the preparation of a Federalism Assessment.

These proposed changes to the FMCSRs will not preempt any State law or State regulation and no additional costs or burdens will be imposed on the States thereby. In fact, regulatory burdens will be lessened as a result of this rulemaking. In addition, this rule will not have a significant effect on the States' ability to execute traditional State governmental functions.

Executive Order 12372 (Intergovernmental Review)

Catalog of Federal Domestic Assistance Program Number 20.217, Motor Carrier Safety. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities do not apply to this program.

Paperwork Reduction Act

The information collection requirements that would be imposed as a result of this rulemaking are being submitted to the OMB for approval in accordance with the Paperwork Reduction Act of 1995, 44 U.S.C. 3501–3520. This rulemaking proposes two new required collections of information. The first is a recordkeeping requirement, an annual inquiry into drivers' driving records, which would be included in the following information collection:

Title: Driver Qualification Files.

Affected Public: Approximately 373,000 motor carriers.

Abstract: Motor carriers are required to maintain a driver qualification file for each CMV driver to document that the driver meets the qualification standards to drive in interstate commerce.

Need: To ensure that motor carriers employ only qualified interstate CMV drivers.

Requested Time Period of Approval: Three years.

Estimated Annual Burden: Based on an estimate of 5,500,000 interstate CMV drivers, annual inquiries into drivers' driving records would impose an estimated annual burden of 398,750 hours. The recordkeeping requirements related to the record of violations impose an estimated annual burden of 159,500 hours. The replacement of these requirements with the proposed recordkeeping requirements related to annual inquiries into drivers' driving records, would increase the total estimated annual burden of driver qualification files (approved by the OMB under control number 2125–0065) by 239,250 hours, from total 836,916 hours to total 1,076,166 hours.

The second proposed information collection is a requirement for motor carriers that use a driver who is furnished by another motor carrier, to obtain information regarding the validity of the driver's qualification certificate. This requirement would be included in the following information collection:

Title: Qualification Certificate.

Affected Public: Approximately 373,000 motor carriers.

Abstract: A motor carrier that employs a driver who is furnished by another motor carrier, is exempt from maintaining a driver qualification file for such driver, provided a qualification certificate is obtained from the furnishing motor carrier.

Need: To ensure that motor carriers employ only qualified interstate CMV drivers.

Requested Time Period of Approval: Three years.

Estimated Annual Burden: The proposed information collection involving contacts to verify the validity of qualification certificates would increase the total estimated annual burden of qualification certificates (approved by the OMB under control number 2125–0081) by 13,750 hours, from 13,750 total hours to 27,500 total hours.

Comments on these proposed collections of information may be submitted to the OMB. Interested parties should send comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725—17th Street, NW., Washington, DC 20503, Attention: Desk Officer for Federal Highway Administration. The OMB is required to make a decision concerning the proposed recordkeeping requirement between 30 and 60 days after publication of this action. A comment to the OMB will be most effective if the OMB receives it within 30 days of publication.

Comments are invited on any aspect of the proposed collections of information including, but not limited to: (1) The necessity and utility of the information collection for the proper performance of the functions of the FHWA; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the collected information; and (4) ways to minimize the collection burden without reducing the quality of the collected information.

National Environmental Policy Act

The agency has analyzed this action for the purpose of the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4347) and has determined that this action would not have any effect on the quality of the environment.

Regulation Identification Number

A regulation identification number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN contained in the heading of this document can be used to cross reference this action with the Unified Agenda.

List of Subjects

49 CFR Part 387

Hazardous materials transportation, Highways and roads, insurance, Motor carriers, Penalties, Reporting and recordkeeping requirements, Surety bonds.

49 CFR Part 390

Highways and roads, Intermodal transportation, Motor carriers, Motor vehicle safety, Reporting and recordkeeping requirements.

49 CFR Part 391

Highways and roads, Motor carriers—driver qualifications, Motor vehicle safety, Reporting and recordkeeping requirements.

49 CFR Part 392

Highways and roads, Highway safety, Motor carriers—driving practices, Motor vehicle safety.

49 CFR Part 395

Global positioning systems, Highways and roads, Intelligent transportation systems, Motor carriers—driver hours of service, Motor vehicle safety, Reporting and recordkeeping requirements.

49 CFR Part 396

Highway safety, Highways and roads, Motor carriers, Motor vehicle maintenance, Motor vehicle safety, Reporting and recordkeeping requirements.

49 CFR Part 397

Hazardous materials transportation, Highways and roads, Motor carriers, Motor vehicle safety.

Issued on: January 7, 1997.

Rodney E. Slater,

Federal Highway Administrator.

In consideration of the foregoing, the FHWA proposes to amend title 49, Code of Federal Regulations, chapter III, subchapter B, parts 387, 390, 391, 392, 395, 396, and 397 as set forth below:

PART 387—MINIMUM LEVELS OF FINANCIAL RESPONSIBILITY FOR MOTOR CARRIERS

1. The authority citation for part 387 continues to read as follows:

Authority: 49 U.S.C. 31138 and 31139; and 49 CFR 1.48.

2. In § 387.5, the definitions *for-hire carriage* and *motor carrier* are revised to read as follows:

§ 387.5 Definitions.

* * * * *

For-hire carriage means transportation of property by a common, contract, or exempt commodity motor carrier of property.

* * * * *

Motor carrier means a for-hire or private motor carrier of property.

* * * * *

3. Section 387.27 is amended by adding paragraph (b)(4) to read as follows:

§ 387.27 Applicability.

* * * * *

(b) * * *

(4) A motor vehicle operated by a contract motor carrier providing transportation of preprimary, primary, and secondary students for extracurricular trips organized, sponsored, and paid by a school district.

4. In § 387.29, the definitions of the terms *motor common carrier* and *motor contract carrier* are removed; and the definitions of *for-hire carriage* and *motor carrier* are revised to read as follows:

§ 387.29 Definitions.

* * * * *

For-hire carriage means transportation of passengers which is generally available to the public at large and is performed for a commercial purpose by a motor carrier which is directly or indirectly compensated, monetarily or otherwise, for the transportation service provided.

* * * * *

Motor carrier means a person providing for-hire carriage.

* * * * *

PART 390—FEDERAL MOTOR CARRIER SAFETY REGULATIONS; GENERAL

5. The authority citation for part 390 continues to read as follows:

Authority: 49 U.S.C. 5901–5907, 31132, 31133, 31136, 31502, and 31504; and 49 CFR 1.48.

6. Section 390.3 is amended by revising paragraph (f)(2) to read as follows:

§ 390.3 General applicability.

* * * * *

(f) * * *

(2) Transportation performed by the Federal government, a State, or any political subdivision of a State, or an agency established under a compact between States that has been approved by the Congress of the United States.

* * * * *

7. In § 390.5, the definition of the term *accident* is revised; the terms

intermittent, casual, or occasional driver and *regularly employed driver* are removed; the terms *multiple-employer driver* and *single-employer driver* are added; and the terms *commercial motor vehicle, interstate commerce,* and *principal place of business* are revised. All are placed in alphabetical order and read as follows:

§ 390.5 Definitions.

* * * * *

Accident means:

(1) Except as provided in paragraph (2) of this definition, an occurrence involving a commercial motor vehicle operating on a public road (inclusive of privately owned roads which are accessible to the public) in interstate or intrastate commerce which results in:

(i) A fatality;

(ii) Bodily injury to a person who, as a result of the injury, immediately receives medical treatment away from the scene of the accident; or

(iii) One or more motor vehicles incurring disabling damage as a result of the accident, requiring the motor vehicle(s) to be transported away from the scene by a tow truck or other motor vehicle.

(2) The term accident does not include:

(i) An occurrence involving only boarding and alighting from a stationary motor vehicle; or

(ii) An occurrence involving only the loading or unloading of cargo.

* * * * *

Commercial motor vehicle means any self-propelled or towed vehicle used on public highways in interstate commerce to transport passengers or property if the vehicle:

(1) Has a gross vehicle weight rating or gross combination weight rating of 10,001 or more pounds; or

(2) Is designed to transport 16 or more passengers, including the driver; or

(3) Is of any size and is used in the transportation of materials found to be hazardous for the purposes of the Hazardous Materials Transportation Act (49 U.S.C. 5101 *et seq.*) and which require the motor vehicle to be placarded under the Hazardous Materials Regulations (49 CFR Part 172, Subpart F).

* * * * *

Interstate commerce means trade, traffic, or transportation in the United States—

(1) Between a place in a State and a place outside of such State (including a place outside of the United States);

(2) Between two places in a State through another State or a place outside of the United States; or

(3) Between two places in a State as part of trade, traffic, or transportation described in paragraphs (1) or (2) of this definition.

* * * * *

Multiple-employer driver means a driver, who in any period of 7 consecutive days, is employed or used as a driver by more than one motor carrier. The qualification of such a driver shall be determined and recorded in accordance with the provisions of §§ 391.63 or 391.65 of this subchapter, as applicable.

* * * * *

Principal place of business means:

(1) For a motor carrier with a single place of business, the single location where records required by parts 387, 390, 391, and 395 of this subchapter must be maintained and where records required by parts 382 and 396 of this subchapter must be made available for inspection within 48 hours (Saturdays, Sundays, and Federal holidays excluded) after a request has been made by a special agent or authorized representative of the Federal Highway Administration.

(2) For a motor carrier with multiple offices or terminals, the single location designated by the motor carrier, normally its headquarters, where records required by parts 382, 387, 390, 391, 395, and 396 must be made available for inspection within 48 hours (Saturdays, Sundays, and Federal holidays excluded) after a request has been made by a special agent or authorized representative of the Federal Highway Administration.

* * * * *

Single-employer driver means a driver who, in any period of 7 consecutive days, is employed or used as a driver solely by a single motor carrier. Such term includes a driver who operates a commercial motor vehicle on an intermittent, casual, or occasional basis.

* * * * *

8. Section 390.29 is added to read as follows:

§ 390.29 Location of records or documents.

(a) A motor carrier with multiple offices or terminals may maintain the records and documents required by this subchapter at a regional office or driver work-reporting location unless otherwise specified in this subchapter.

(b) All records and documents required by this subchapter which are maintained at a regional office or driver work-reporting location shall be made available for inspection upon request by a special agent or authorized representative of the Federal Highway Administration at the motor carrier's principal place of business or other location specified by the agent or representative within 48 hours after a request is made. Saturdays, Sundays, and Federal holidays are excluded from the computation of the 48-hour period of time.

PART 391—QUALIFICATIONS OF DRIVERS

9. The authority citation for part 391 continues to read as follows:

Authority: 49 U.S.C. 504, 31133, 31136, and 31502; and 49 CFR 1.48.

§ 391.11 [Amended]

10. Section 391.11 is amended by revising paragraph (b) to read as follows:

§ 391.11 Qualifications of drivers.

* * * * *

(b) Except as provided in subpart G of this part, a person is qualified to drive a motor vehicle if he/she—

(1) Is at least 21 years old;

(2) Can read and speak the English language sufficiently to converse with the general public, to understand highway traffic signs and signals in the English language, to respond to official inquiries, and to make entries on reports and records;

(3) Can, by reason of experience, training, or both, safely operate the type of commercial motor vehicle he/she drives;

(4) Is physically qualified to drive a commercial motor vehicle in accordance with subpart E—Physical Qualifications and Examinations of part 391;

(5) Has a currently valid commercial motor vehicle operator's license issued only from one State or jurisdiction; and

(6) Is not disqualified to drive a commercial motor vehicle under the rules in § 391.15.

11. Section 391.15 is amended by revising paragraph (b) to read as follows:

§ 391.15 Disqualification of drivers.

* * * * *

(b) Loss of driving privileges.

(1) A driver is disqualified for the duration of the driver's loss of his/her privilege to operate a commercial motor vehicle on public highways, either temporarily or permanently, by reason of the revocation, suspension, withdrawal, or denial of an operator's license, permit, or privilege, until that operator's license, permit, or privilege is restored by the authority that revoked, suspended, withdrew, or denied it.

(2) A driver who receives a notice that his/her license, permit, or privilege to operate a commercial motor vehicle has been revoked, suspended, or withdrawn shall notify the motor carrier that

employs him/her of the contents of the notice before the end of the business day following the day the driver received it.

* * * * *

12. Section 391.25 is revised to read as follows:

§ 391.25 Annual inquiry and review of driving record.

(a) Except as provided in subpart G of this part, each motor carrier shall, at least once every 12 months, make an inquiry into the driving record of each driver it employs, covering at least the preceding 12 months, to the appropriate agency of every State in which the driver held a commercial motor vehicle operator's license or permit during the time period.

(b) Except as provided in subpart G of this part, each motor carrier shall, at least once every 12 months, review the driving record of each driver it employs to determine whether that driver meets minimum requirements for safe driving or is disqualified to drive a commercial motor vehicle pursuant to § 391.15.

(1) The motor carrier must consider any evidence that the driver has violated any applicable Federal Motor Carrier Safety Regulations or Hazardous Materials Regulations.

(2) The motor carrier must consider the driver's accident record and any evidence that the driver has violated laws governing the operation of motor vehicles, and must give great weight to violations, such as speeding, reckless driving, and operating while under the influence of alcohol or drugs, that indicate that the driver has exhibited a disregard for the safety of the public.

(c) Recordkeeping.

(1) A copy of the response by each State agency to the inquiry required by paragraph (a) of this section, showing the driver's driving record or certifying that no driving record exists for the driver, shall be maintained in the driver's qualification file.

(2) A note, including the name of the person who performed the review of the driving record required by paragraph (b) of this section and the date of such review, shall be maintained in the driver's qualification file.

§ 391.27 [Removed and Reserved]

13. Section 391.27 is removed and reserved.

Subpart D of Part 391—[Removed and Reserved]

14. Subpart D of part 391 (§§ 391.31 and 391.33) is removed and reserved.

15. Section 391.49 is amended by revising paragraph (d)(5) to read as follows:

§ 391.49 Waiver of certain physical defects.

* * * * *

(d) * * *

(5) Road test:

(i) A motor carrier coapplicant shall ensure that a driver applicant has successfully completed a road test. The road test shall be given by the motor carrier or a person designated by it. The test shall be given by a person who is competent to evaluate the driver applicant's performance and determine whether he/she can operate the type of commercial motor vehicle, and associated equipment, the motor carrier intends to assign him/her.

(ii) A unilateral driver applicant shall be responsible for having a road test administered by a person who is competent to evaluate the driver applicant's performance and determine whether he/she can operate the type of commercial motor vehicle, and associated equipment, he/she proposes to operate.

(iii) At a minimum, the person who takes the road test must be evaluated on his/her skill at performing each of the following:

(A) Coupling and uncoupling of combination units, if applicable;

(B) Placing the commercial motor vehicle in operation;

(C) Use of the commercial motor vehicle's controls and emergency equipment;

(D) Operating the commercial motor vehicle in traffic including passing other motor vehicles;

(E) Turning the commercial motor vehicle;

(F) Braking and slowing the commercial motor vehicle by means other than braking; and

(G) Backing and parking the commercial motor vehicle.

(iv) If the road test is successfully completed, the person who gave it shall certify in writing that the person tested possesses sufficient driving skill to operate safely the type of commercial motor vehicle in which the test was given. The written certification shall include the date of the road test, the name of person tested; the type of power unit and trailer(s), or type of bus used for the test; and name, signature, occupation, and address of the person who gave the test.

* * * * *

16. Section 391.51 is revised to read as follows:

§ 391.51 General requirements for driver qualification files.

(a) Each motor carrier shall maintain a driver qualification file for each driver it employs. A driver's qualification file may be combined with his/her personnel file.

(b) The qualification file for a driver must include:

(1) The driver's application for employment completed in accordance with § 391.21;

(2) The written record with respect to each past employer who was contacted and a copy of the response by each State agency, pursuant to § 391.23 involving investigation and inquiries;

(3) The response of each State agency to the annual driver record inquiry required by § 391.25(a);

(4) The note relating to the annual review of the driver's driving record as required by § 391.25(c)(2);

(5) The medical examiner's certificate of his/her physical qualification to drive a commercial motor vehicle as required by § 391.43(f) or a legible photographic copy of the certificate; and

(6) The letter from the Regional Director of Motor Carriers granting a waiver of a physical disqualification, if a waiver was issued under § 391.49.

(c) Except as provided in paragraph (d) of this section, each driver's qualification file shall be retained for as long as a driver is employed by that motor carrier and for 3 years thereafter.

(d) The following records may be removed from a driver's qualification file 3 years after the date of execution:

(1) The response of each State agency to the annual driver record inquiry required by § 391.25(a);

(2) The note relating to the annual review of the driver's driving record as required by § 391.25(c)(2);

(3) The medical examiner's certificate of the driver's physical qualification to drive a commercial motor vehicle or the photographic copy of the certificate as required by § 391.43(f); and

(4) The letter issued under § 391.49 granting a waiver of a physical disqualification.

(Approved by the Office of Management and Budget under control number 2125–0065)

17. Section 391.61 is revised to read as follows:

§ 391.61 Drivers who were regularly employed before January 1, 1971.

The provisions of § 391.21 (relating to applications for employment) and § 391.23 (relating to investigations and inquiries) do not apply to a driver who has been a single-employer driver (as defined in § 390.5 of this subchapter) of a motor carrier for a continuous period which began before January 1, 1971, as long as he/she continues to be a single-employer driver of that motor carrier.

18. Section 391.63 is revised to read as follows:

§ 391.63 Multiple-employer drivers.

(a) If a motor carrier employs a person as a multiple-employer driver (as defined in § 390.5 of this subchapter), the motor carrier shall comply with all requirements of this part, except that the motor carrier need not—

(1) Require the person to furnish an application for employment in accordance with § 391.21;

(2) Make the investigations and inquiries specified in § 391.23 with respect to that person;

(3) Perform the annual driving record inquiry required by § 391.25(a); or

(4) Perform the annual review of the person's driving record required by § 391.25(b).

(b) Before a motor carrier permits a multiple-employer driver to drive a commercial motor vehicle, the motor carrier must obtain his/her name, his/her social security number, and the identification number, type and issuing State of his/her commercial motor vehicle operator's license. The motor carrier must maintain this information for three years after employment of the multiple-employer driver ceases.

19. Section 391.65 is amended by revising paragraphs (b) and (c) to read as follows:

§ 391.65 Drivers furnished by other motor carriers.

* * * * *

(b) A motor carrier that obtains a certificate in accordance with paragraph (a)(2) of this section shall:

(1) Contact the motor carrier which certified the driver's qualifications under this section to verify the validity of the certificate. This contact may be made in person, by telephone, or by letter.

(2) Retain a copy of that certificate in its files for 3 years.

(c) A motor carrier which certifies a driver's qualifications under this section shall be responsible for the accuracy of the certificate. The certificate is no longer valid if the driver leaves the employment of the motor carrier which issued the certificate or is no longer qualified under the rules in this part.

20. Section 391.67 is revised to read as follows:

§ 391.67 Farm vehicle drivers of articulated commercial motor vehicles.

The following rules in this part do not apply to a farm vehicle driver (as defined in § 390.5) who is 18 years of age or older and who drives an articulated commercial motor vehicle:

(a) Section 391.11(b)(1) (relating to age);

(b) Subpart C (relating to disclosure of, investigation into, and inquiries about the background, character, and driving record of, drivers); and

(c) Subpart F (relating to maintenance of files and records).

21. Section 391.68 is revised to read as follows:

§ 391.68 Private motor carrier of passengers (nonbusiness).

The following rules in this part do not apply to a private motor carrier of passengers (nonbusiness) and its drivers:

(a) Section 391.21 (relating to application for employment);

(b) Subpart C (relating to disclosure of, investigation into, and inquiries about the background, character, and driving record of, drivers);

(c) So much of §§ 391.41 and 391.45 require a driver to be medically examined and to have a medical examiner's certificate on his/her person;

(d) Subpart F (relating to maintenance of files and records); and

(e) Subpart H (relating to controlled substances testing).

22. Section 391.69 is revised to read as follows:

§ 391.69 Private motor carrier of passengers (business).

The provisions of § 391.21 (relating to applications for employment) and § 391.23 (relating to investigations and inquiries) do not apply to a driver who was a single-employer driver (as defined in § 390.5 of this subchapter) of a private motor carrier of passengers (business) as of July 1, 1994, so long as the driver continues to be a single-employer driver of that motor carrier.

§ 391.71 [Removed and Reserved]

23. Section 391.71 is removed and reserved.

§ 391.73 [Removed and Reserved]

24. Section 391.73 is removed and reserved.

PART 392—DRIVING OF MOTOR VEHICLES

25. The authority citation for part 392 continues to read as follows:

Authority: 49 U.S.C. 31136 and 31502; and 49 CFR 1.48.

§ 392.7 [Removed and Reserved]

26. Section 392.7, Equipment, inspection and use, is removed and reserved.

§ 392.8 [Removed and Reserved]

27. Section 392.8, Emergency equipment, inspection, and use, is removed and reserved.

28. Section 392.9 is revised to read as follows:

§ 392.9 Safe loading.

(a) General. No person shall drive a commercial motor vehicle and a motor carrier shall not require or permit a person to drive a commercial motor vehicle unless—

(1) The commercial motor vehicle's cargo is properly distributed and adequately secured as specified in §§ 393.100—393.106 of this subchapter;

(2) The commercial motor vehicle's tailgate, tailboard, doors, tarpaulins, its spare tire and other equipment used in its operation, and the means of fastening the commercial motor vehicle's cargo are secured; and

(3) The commercial motor vehicle's cargo or any other object does not obscure the driver's view ahead or to the right or left sides, interfere with the free movement of his arms or legs, prevent his free and ready access to accessories required for emergencies, or prevent the free and ready exit of any person from the commercial motor vehicle's cab or driver's compartment.

(b) Buses. No person shall drive a bus and a motor carrier shall not require or permit a person to drive a bus unless the baggage, freight, or express on the bus is stowed and secured in a manner which assures—

(1) Unrestricted freedom of movement to the driver and his proper operation of the bus;

(2) Unobstructed access to all exits by any occupant of the bus; and

(3) Protection of occupants of the bus against injury resulting from the falling or displacement of articles transported in the bus.

§ 392.9b [Removed and Reserved]

29. Section 392.9b, Hearing aid to be worn, is removed and reserved.

30. Section 392.10, Railroad grade crossings; stopping required, is amended by revising paragraph (b) to read as follows:

§ 392.10 Railroad grade crossings; stopping required.

* * * * *

(b) A stop need not be made at:

(1) A railroad grade crossing with an active warning device. For the purposes of this section, an active warning device includes a functioning highway traffic signal, gate, or a device that uses sound or light(s) to warn drivers of an approaching train;

(2) A railroad grade crossing when a police officer or crossing flagman directs traffic to proceed;

(3) A streetcar crossing, or railroad tracks used exclusively for industrial switching purposes, within a business district as defined in § 390.5 of this chapter;

(4) An abandoned railroad grade crossing which is marked with a sign indicating that the rail line is abandoned;

(5) An industrial or spur line railroad grade crossing marked with a sign reading ''Exempt.'' Such ''Exempt'' signs shall be erected only by or with the consent of the appropriate State or local authority.

§ 392.13 [Removed and Reserved]

31. Section 392.13, Drawbridges; slowing down of commercial motor vehicles, is removed and reserved.

§ 392.14 [Removed and Reserved]

32. Section 392.14, Hazardous conditions; extreme caution, is removed and reserved.

§ 392.15 [Removed and Reserved]

33. Section 392.15, Required and prohibited use of turn signals, is removed and reserved.

§ 392.20 [Removed and Reserved]

34. Section 392.20, Unattended commercial motor vehicles; precautions, is removed and reserved.

35. Section 392.22 is amended by revising paragraph (b)(1) to read as follows:

§ 392.22 Emergency signals; stopped commercial motor vehicles.

* * * * *

(b) Placement of warning devices—

(1) General rule. Except as provided in paragraph (b)(2) of this section, whenever a commercial motor vehicle is stopped upon the traveled portion or the shoulder of a highway for any cause other than necessary traffic stops, the driver shall as soon as possible, but in any event within 10 minutes, place the warning devices required by § 393.95 of this subchapter, in the following manner:

(i) One on the traffic side of and approximately 3 meters (10 feet or 4 paces) from the stopped commercial motor vehicle in the direction of approaching traffic;

(ii) One at approximately 30 meters (100 feet or 40 paces) from the stopped commercial motor vehicle in the center of the traffic lane or shoulder occupied by the commercial motor vehicle and in the direction of approaching traffic; and

(iii) One at approximately 30 meters (100 feet or 40 paces) from the stopped commercial motor vehicle in the center of the traffic lane or shoulder occupied by the commercial motor vehicle and in the direction away from approaching traffic.

* * * * *

§ 392.25 [Removed and Reserved]

36. Section 392.25, Emergency signals; dangerous cargoes, is removed and reserved.

§ 392.42 [Removed and Reserved]

37. Section 392.42, Notification of license revocation, is removed and reserved.

§ 392.51 [Removed and Reserved]

38. Section 392.51, Reserve fuel, is removed and reserved.

§ 392.52 [Removed and Reserved]

39. Section 392.52, Buses; fueling, is removed and reserved.

40. Section 392.62 is added to read as follows:

§ 392.62 Driving of buses, standee line or bar.

No person shall drive a bus and a motor carrier shall not require or permit a person to drive a bus unless all standees on the bus are rearward of the standee line or other means prescribed in § 393.90 of this subchapter.

§ 392.68 [Removed and Reserved]

41. Section 392.68, Motive power not to be disengaged, is removed and reserved.

PART 395—HOURS OF SERVICE OF DRIVERS

42. The authority citation for part 395 continues to read as follows:

Authority: 49 U.S.C. 31133, 31136, and 31502; sec. 345, Pub.L. 104–59, 109 Stat. 568, 613; and 49 CFR 1.48.

§ 395.1 [Amended]

43. Section 395.1 is amended by removing paragraph (g) and redesignating paragraphs (h) through (k) to read as (g) through (j), respectively.

§ 395.2 [Amended]

44. In § 395.2, the definition of *on duty time* is revised to read as follows:

§ 395.2 Definitions.

* * * * *

On duty time means all time from the time a driver begins to work or is required to be in readiness to work until the time he/she is relieved from work and all responsibility for performing work. *On duty time* shall include:

(1) All time at a plant, terminal, facility, or other property of a motor carrier or shipper, or on any public property, waiting to be dispatched, unless the driver has been relieved from duty by the motor carrier;

(2) All time inspecting, servicing, or conditioning any commercial motor vehicle at any time;

(3) All driving time as defined in the term *driving time*;

(4) All time, other than *driving time,* in or upon any commercial motor vehicle except time spent resting in a *sleeper berth*;

(5) All time loading or unloading a commercial motor vehicle, supervising, or assisting in the loading or unloading, attending a commercial motor vehicle being loaded or unloaded, remaining in readiness to operate the commercial motor vehicle, or in giving or receiving receipts for shipments loaded or unloaded;

(6) All time repairing, obtaining assistance, or remaining in attendance upon a disabled commercial motor vehicle;

(7) All time spent providing a breath sample or urine specimen, including travel time to and from the collection site, in order to comply with the random, reasonable suspicion, post-crash, or follow-up testing required by part 382 or part 391, subpart H, of this subchapter, whichever is applicable, when directed by a motor carrier;

(8) Performing any other work in the capacity of, or in the employ or service of, a motor carrier; and

(9) Performing any compensated work for person who is not a motor carrier.

* * * * *

45. Section 395.8 is amended by revising paragraph (k)(1) to read as follows:

§ 395.8 Driver's record of duty status.

* * * * *

(k) Retention of driver's record of duty status. (1) Each motor carrier shall maintain records of duty status and all supporting documents for each driver it employs for a period of six months from the date of receipt.

* * * * *

PART 396—INSPECTION, REPAIR, AND MAINTENANCE

46. The authority citation for part 396 continues to read as follows:

Authority: 49 U.S.C. 31133, 31136, and 31502; and 49 CFR 1.48.

47. Section 396.11 is amended by revising paragraphs (b), (c), and (d) to read as follows:

§ 396.11 Driver vehicle inspection report(s).

* * * * *

(b) Report content. The report shall identify the vehicle and list any defect or deficiency discovered by or reported to the driver which would affect the safety of operation of the vehicle or result in its mechanical breakdown. If no defect or deficiency is discovered by or reported to the driver, the report shall so indicate. In all instances, the driver

shall sign the report. On two-driver operations, only one driver needs to sign the driver vehicle inspection report, provided both drivers agree as to the defects or deficiencies identified. If a driver operates more than one vehicle during the day, a report shall be prepared for each vehicle operated.

(c) Corrective action. Prior to requiring or permitting a driver to operate a vehicle, every motor carrier or its agent shall repair any defect or deficiency listed on the driver vehicle inspection report which would be likely to affect the safety of operation of the vehicle.

(1) Every motor carrier or its agent shall certify on a driver vehicle inspection report which lists any defect or deficiency that the defect or deficiency has been repaired or that repair is unnecessary before the vehicle is operated again.

(2) Every motor carrier shall maintain the driver vehicle inspection report and the certification of repairs for three months from the date the written report was prepared.

(d) Exceptions. The rules in this section shall not apply to a private motor carrier of passengers (nonbusiness), a driveaway-towaway operation, or any motor carrier operating only one commercial motor vehicle.

48. Section 396.13 is amended by revising paragraph (b) to read as follows:

§ 396.13 Driver inspection.

* * * * *

(b) Review the last driver vehicle inspection report; and

* * * * *

PART 397—TRANSPORTATION OF HAZARDOUS MATERIALS; DRIVING AND PARKING RULES

49. The authority citation for part 397 continues to read as follows:

Authority: 49 U.S.C. 322; 49 CFR 1.48. Subpart A also issued under 49 U.S.C. 31136, 31502. Subparts C, D, and E also issued under 49 U.S.C. 5112, 5125.

50. Section 397.19 is amended by revising paragraph (b) to read as follows:

§ 397.19 Instructions and documents.

* * * * *

(b) A driver who receives documents in accordance with paragraph (a) of this section must sign a receipt for them. The motor carrier shall maintain the receipt for a period of one year from the date of signature.

* * * * *

[FR Doc. 97–1501 Filed 1–24–97; 8:45 am]

BILLING CODE 4910–22–P

Notices

Federal Register
Vol. 62, No. 17
Monday, January 27, 1997

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

COMMISSION ON CIVIL RIGHTS

Amendment to Notice of Public Meeting of the Virginia Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the Virginia Advisory Committee to the Commission published in the Federal Register on December 27, 1997, FR Doc 96–33018, vol. 61, FR 68224–68225, has been canceled for Thursday, January 30, 1997, and Friday, January 31, 1997. The new meeting dates are Thursday, March 6, 1997 at the Hampton City Council Chambers, 22 Lincoln Street, Hampton, Virginia 23669, and Friday, March 7, 1997, at the Newport News City Council Chambers, 2400 Washington Avenue, Newport News, Virginia 23607, convening at 9:30 a.m. and adjourning at 7:00 p.m. on both days. This notice is change of dates only.

Persons desiring additional information, or planning a presentation to the Committee, should contact Ki-Taek Chun, Director of the Eastern Regional Office, 202–376–7533 (TDD 202–376–8116). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least five (5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, January 21, 1997.
Carol-Lee Hurley,
Chief, Regional Programs Coordination Unit.
[FR Doc. 97–1844 Filed 1–24–97; 8:45 am]
BILLING CODE 6335–01–P

DEPARTMENT OF COMMERCE

Bureau of the Census

[Docket No. 970113005–7005–01]

RIN 0607–XX26

Change in Report Series From Print Publication To INTERNET Access

AGENCY: Bureau of the Census, Commerce.

ACTION: Notice of publication program change.

SUMMARY: This document will serve as notice to users of Report Series FT925, U.S. MERCHANDISE TRADE: EXPORTS, GENERAL IMPORTS AND IMPORTS FOR CONSUMPTION, SITC REVISION 3, COMMODITY BY COUNTRY, that the Census Bureau will cease printed publication of this report with the December 1996 edition. Information previously available in this series, as well as additional data, will be available on the INTERNET at http://www.census.gov.

EFFECTIVE DATE: March 1, 1997.

FOR FURTHER INFORMATION CONTACT: Haydn Mearkle, Assistant Chief, Foreign Trade Division, U.S. Census Bureau, Washington, DC 20233, telephone: 301–457–2246.

SUPPLEMENTARY INFORMATION: The FT925, U.S. MERCHANDISE TRADE: EXPORTS, GENERAL IMPORTS AND IMPORTS FOR CONSUMPTION, SITC REVISION 3, COMMODITY BY COUNTRY, provides monthly statistical information about the physical movement of merchandise between the United States and foreign countries. It includes value for current month and cumulative year-to-date by SITC (standard international trade classification) code by commodity groupings. The annual edition includes corrections to previously published data.

Information previously available in this series will be accessible on the day of release through the Census Bureau's INTERNET site. Information for U.S. 1-digit and 2-digit commodity levels and information by country at the 1-digit commodity level will be available for current month and year-to-date. Access to an on-line data base with additional detailed information will be available on a subscription basis.

For additional information, please contact Haydn Mearkle, Assistant Chief, Foreign Trade Division, U.S. Census Bureau, Washington, DC 20233, telephone: 301–457–2246.

Dated: January 10, 1997.
Martha Farnsworth Riche,
Director, Bureau of the Census.
[FR Doc. 97–1881 Filed 1–24–97; 8:45 am]
BILLING CODE 3510–07–P

Economic Development Administration

Notice of Petitions by Producing Firms for Determination of Eligibility To Apply for Trade Adjustment Assistance

AGENCY: Economic Development Administration (EDA), Commerce.

ACTION: To give firms an opportunity to comment.

Petitions have been accepted for filing on the dates indicated from the firms listed below.

LIST OF PETITION ACTION BY TRADE ADJUSTMENT ASSISTANCE FOR PERIOD 11/22/96–01/10/97

Firm Name	Address	Date petition accepted	Product
Inola Casting Works, Inc	P.O. Box 969, Inola, OK 74036	11/22/96	Costume jewelry—necklaces and bracelets.
Armel Electronics, Inc	1601 75th Street, North Bergen, NJ 07047.	11/25/96	Printed circuit connectors.
C & C Metal Products Corporation	456 Nordhoff Place, Englewood, NJ 07631.	11/27/96	Jewelry and related findings—buttons, studs and industrial equipment.

LIST OF PETITION ACTION BY TRADE ADJUSTMENT ASSISTANCE FOR PERIOD 11/22/96–01/10/97—Continued

Firm Name	Address	Date petition accepted	Product
Gulf Valve Company	6511 Winfree, Houston, TX 77087	12/04/96	Check Valves.
Manhattan Lace, Inc	471 Victoria Terrace Ridgefield, NJ 07657.	12/06/96	Venice Lace and Schiffli Embroidery.
Howard Creations, Inc	36–31 33rd Street, Long Island, NY 11106.	12/09/96	Cummerbunds, bow ties and vests.
SYNCO Chemical Corporation	24 Davinci Drive, Bohemia, NY 11716	12/09/96	Synthetic Lubricant.
Submersible Pumps, Inc	1800 South Little, Cushing, OK 74023	12/10/96	Submersible centrifugal pumps.
Unliens Corporation, Inc	10431 72nd Street, North Largo, FL 34647.	12/11/96	Contact lenses.
Talema Electronic, Inc	# 3 Industrial Park Drive, St. James, MO 65559.	12/13/96	Transformers.
Bohning Company, Ltd	7361 North 7 Mile Road, Lake City, MI 49651.	12/23/96	Adhesives, paints and archery supplies and miscellaneous injection molded products.
Sewline Products, Inc	30 South Railroad Street, New London, OH 44851.	12/18/96	Infant/child car seats, pads, cushions and hoods and other custom items.
Innovative Headware, Inc	507 Spitj G Street, Lake Worth, FL 33460	12/26/96	Hats.
Advanced Machining Techniques	164 Martinvale Lane, San Jose, CA 9519	12/26/96	Parts for automotive and medical industries and adp disk drives.
ALPHA Sintered Metals, Inc	Rt. 1, Box 43D, Montmorenci Road, Ridgeway, PA 15853.	12/30/96	Parts for automobiles, lawn and garden equipment and power tools and equipment.
Brum-Do Magnetics Corporation	150 Binfield Street, Elkhorn, NE 68022	12/30/96	Glide/burnished heads used in the quality testing of hard disks refurbished arms and headstacks.
W.R. Western, Inc	7712 Melrose Lane, Oklahoma City, OK 73127.	1/03/97	Tack and livery equipment.
Sher Woven Label Co., Inc	62 West 38th Street, New York, NY 10018.	01/07/97	Woven labels for apparel identification.
Hathaway Shirt Co., Inc	10 Water Street, Waterville, ME 04901	01/08/97	Men's dress and casual shirts.
Atlas Container Corporation	8140 Telegraph Road, Odenton, MD 21113.	01/10/97	Corrugated cardboard packaging materials.

The petitions were submitted pursuant to Section 251 of the Trade Act of 1974 (19 U.S.C. 2341). Consequently, the United States Department of Commerce has initiated separate investigations to determine whether increased imports into the United States of articles like or directly competitive with those produced by each firm contributed importantly to total or partial separation of the firm's workers, or threat thereof, and to a decrease in sales or production of each petitioning firm.

Any party having a substantial interest in the proceedings may request a public hearing on the matter. A request for a hearing must be received by the Trade Adjustment Assistance Division, Room 7023, Economic Development Administration, U.S. Department of Commerce, Washington, DC 20230, no later than the close of business of the tenth calendar day following the publication of this notice.

The Catalog of Federal Domestic Assistance official program number and title of the program under which these petitions are submitted is 11.313, Trade Adjustment Assistance.

Dated: January 16, 1997.

Lewis R. Podolske,

Director, Trade Adjustment Assistance Division.

[FR Doc. 97–1814 Filed 1–24–97; 8:45 am]

BILLING CODE 3510–24–M

National Institute of Standards and Technology

Government Owned Inventions Available for Licensing

AGENCY: National Institute of Standards and Technology, Commerce.

ACTION: Notice of Government Owned Inventions Available for Licensing.

SUMMARY: The inventions listed below are owned by the U.S. Government, as represented by the Department of Commerce, and are available for licensing in accordance with 35 U.S.C. 207 and 37 CFR Part 404 to achieve expeditious commercialization of results of federally funded research and development.

FOR FURTHER INFORMATION CONTACT: Technical and licensing information on these inventions may be obtained by writing to: Marcia Salkeld, National Institute of Standards and Technology, Industrial Partnerships Program, Building 820, Room 213, Gaithersburg, MD 20899; Fax 301–869–2751. Any request for information should include the NIST Docket No. and Title for the relevant invention as indicated below.

SUPPLEMENTARY INFORMATION: NIST may enter into a Cooperative Research and Development Agreement (''CRADA'') with the licensee to perform further research on the invention for purposes of commercialization. The inventions available for licensing are:

NIST Docket Number: 95–024.

Abstract: The device allows the utilization of existing chromatography equipment for electrochromatography.

NIST Docket Number: 95–025.

Abstract: The invention describes a process to purify nucleic acids and viruses using the application of an electrical field to a porous media. Nucleic acids and viruses can be concentrated from solution and purified from other components in mixtures. The invention also describes methods to separate individual nucleic acid molecules based on their mass and physical form. The variables of the separation include: flow rate, electrical

field strength, electrical field polarity, and the chemical and physical nature of the porous media. These variables can be changed to give selective separations.

NIST Docket Number: 95–031.

Abstract: This acoustic microscope analyzes the properties of a solid using an ultrasonic transducer having a curved piezoelectric element, mounted in a curved insulating material, that generates and receives coherent, short-duration ultrasonic pulses through its coupling fluid. The received echo waveforms are recorded and compared with reference samples or known theory and computer simulations.

Dated: January 16, 1997.

Elaine Bunten-Mines,

Director, Program Office.

[FR Doc. 97–1812 Filed 1–24–97; 8:45 am]

BILLING CODE 3510–13–M

National Oceanic and Atmospheric Administration

[I.D. 011597A]

Pacific Salmon Fisheries off the Coasts of California, Oregon, Washington, Alaska and in the Columbia River Basin

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of intent; scoping meetings; request for comments.

SUMMARY: NMFS announces its intention to prepare an environmental impact statement (EIS) on ocean and in-river fisheries that may result in the incidental take of Pacific salmonids either currently listed or proposed for listing under the Endangered Species Act (ESA).

NMFS will also prepare four environmental assessments (EAs) for the 1997 salmon fisheries.

NMFS will hold scoping meetings to provide for public input into the range of actions, alternatives, and impacts that the EIS should consider. In addition to holding the scoping meetings, NMFS is accepting written comments on the range of actions, alternatives, and impacts it should be considering for this EIS and on the scope of the EAs.

DATES: Written comments will be accepted through February 28, 1997. See **SUPPLEMENTARY INFORMATION** for meeting times and special accommodations.

ADDRESSES: Written comments and requests to be included on a mailing list of persons interested in the EIS should be sent to Joseph R. Blum, Office of Protected Resources, Endangered Species Division (PR3), National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910.

See **SUPPLEMENTARY INFORMATION** for meeting locations and special accommodations.

FOR FURTHER INFORMATION CONTACT: Joseph R. Blum (301) 713–1401.

SUPPLEMENTARY INFORMATION: Since 1989 Sacramento River winter run chinook salmon; since 1991 Snake River sockeye salmon; since 1992 Snake River spring/summer chinook salmon and Snake River fall chinook salmon; and since 1996 Umpqua River cutthroat trout (*Oncorhynchus clarki clarki*) and central California coastal coho salmon (*Oncorhynchus kisutch*) have been listed as either threatened or endangered under the ESA. The several populations of chinook salmon are all distinct population segments of *Oncorhynchus tshawytscha* and the Snake River sockeye salmon is a distinct population segment of *Oncorhynchus nerka*. Annually the Pacific Fisheries Management Council and the North Pacific Fisheries Management Council have recommended, and NMFS has approved, salmon fisheries for the West Coast and Alaska. As a part of that process, NMFS has prepared biological opinions and issued incidental take statements for these fisheries, in compliance with section 7 of the ESA.

NMFS is proposing to list 2 additional Evolutionarily Significant Units (ESUs) of West Coast coho (*Oncorhynchus kisutch*), the central Oregon ESU and the Southern Oregon/Northern California ESU and 10 ESUs of West Coast steelhead (*Oncorhynchus mykiss*). The salmon fisheries EIS will include discussions of impacts of each alternative for each of those ESUs.

The listed salmon and salmon proposed to be listed are born in the tributaries of the Sacramento and Snake Rivers as well as the coastal rivers of central and northern California and southern and central Oregon. They travel down river to the Pacific Ocean before returning 2 to 6 years later to their natal streams to spawn.

During their journey down and up these rivers and through the ocean they travel along thousands of miles of waterways, around or over numerous hydroelectric and agricultural diversion dams, past thousands of acres of private and public lands and across at least two international boundaries and up to five state boundaries and come under a vast array of agencies and legal regimes. The following is a partial list of agencies, bodies and governments that manage Pacific salmon: U.S. Department of Commerce; States of California, Oregon, Washington, Idaho and Alaska; over thirty Native American tribal jurisdictions; Pacific Fisheries Management Council; North Pacific Fisheries Management Council; and the Pacific Salmon Commission.

In September of 1996 the Ninth Circuit Court of Appeals ruled in *Ramsey* v. *Kantor* that certain Federal actions in managing or ruling on some Columbia River and Alaskan salmon fisheries constitute major Federal action for purposes of the National Environmental Policy Act (NEPA). The Court concluded that under NEPA, NMFS was required to prepare an EA and possibly an EIS.

As a result of this ruling, and because of the complex management regimes governing Pacific salmon fisheries, NMFS has determined that an EIS that covers all the salmon fisheries affecting both the listed and proposed salmonids is the most appropriate means to provide full analysis and consideration of the environmental effects of these fisheries. Since the EIS is not expected to be completed by the time the 1997 fisheries are conducted, NMFS will prepare EAs on the 1997 Columbia River and Alaska salmon fisheries. Because of the timing of the Columbia River fisheries and the urgency to prepare an EA, the Columbia River salmon fisheries will be treated in two EAs, based on season of fishing and listed species affected. The West Coast salmon fisheries are managed under a fishery management plan that was adopted in 1984, in consideration of an EIS. A West Coast salmon fisheries EA will be prepared in 1997 in the normal course of Pacific Fisheries Management Council management.

Given the complex but interwoven nature of West Coast, Alaskan and Columbia River salmon management, NMFS will develop an EIS with each major geographic fishery constituting a part of the EIS. There will be separate West Coast, Alaskan and Columbia River parts in which the full range of appropriate management alternatives will be discussed. In addition to the mandated No Action Alternative (no fishery authorized, no ESA consultation conducted, or no ESA incidental take permit issued) each part will include at least the following alternatives: Selective fisheries using contemporary methods, in which listed species will be avoided; selective fisheries using historic methods and means, such as fish traps or fish wheels; and current line and/or net fisheries. NMFS is seeking suggested additional alternatives from the public through the scoping process and written responses to this notice.

The scoping meetings for Portland, Boise, Seattle and Santa Rosa will be held at the following times and locations:

Portland, OR—February 3, 1997, 6–9 p.m., Federal Complex Auditorium, 911 NE. 11th Avenue, Portland, OR

Boise, ID—February 4, 1997, 6–9 p.m., Interagency Fire Center Auditorium, 3905 Vista Avenue, Boise, ID

Seattle, WA—February 5, 1997, 6–9 p.m., Building 9, A&B Seminar Rooms, NMFS, Northwest Regional Office, 7600 Sand Point Way NE, Seattle, WA

Santa Rosa, CA—February 18, 1997, 7–10 p.m., Doubletree Hotel, 3555 Round Barn Blvd., Santa Rosa, CA

Special Accommodations

Requests for sign language interpretation or other auxiliary aids should be directed (for California) to Rod McInnis (310) 980-4040 or (for all other meetings) to Robert Bayley (503) 230-5432 at least 5 days before the meeting dates.

Authority: 16 U.S.C. 1801 *et. seq.*; 42 U.S.C. 4321 *et. seq.*

Dated: January 22, 1997.

George H. Darcy,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 97–1894 Filed 1–24–97; 8:45 am]

BILLING CODE 3510–22–F

COMMODITY FUTURES TRADING COMMISSION

Applications of the Chicago Mercantile Exchange for Designation as a Contract Market in Futures and Options on South African Rand

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of availability of the terms and conditions of proposed commodity futures and option contracts.

SUMMARY: The Chicago Mercantile Exchange (CME or Exchange) has applied for designation as a contract market in futures and options on South African Rand.

The Acting Director of the Division of Economic Analysis (Division) of the Commission, acting pursuant to the authority delegated by Commission Regulation 140.96, has determined that publication of the proposals for comment is in the public interest, will assist the Commission in considering the views of interested persons, and is consistent with the purposes of the Commodity Exchange Act.

DATES: Comments must be received on or before February 26, 1997.

ADDRESSES: Interested persons should submit their views and comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, Three Lafayette Centre, 21st Street, NW., Washington, DC 20581. In addition, comments may be sent by facsimile transmission to facsimile number (202) 418–5521, or by electronic mail to secretary@cftc.gov. Reference should be made to the CME South African Rand futures and option contracts.

FOR FURTHER INFORMATION CONTACT:

Please contact Stephen Sherrod of the Division of Economic Analysis, Commodity Futures Trading Commission, Three Lafayette Centre, 21st Street NW., Washington, DC 20581, telephone 202–418–5277. Facsimile number: (202) 418–5527. Electronic mail: ssherrod@cftc.gov

SUPPLEMENTARY INFORMATION: Copies of the terms and conditions will be available for inspection at the Office of the Secretariat, Commodity Futures Trading Commission, Three Lafayette Centre, 21st Street NW., Washington, DC 20581. Copies of the terms and conditions can be obtained through the Office of the Secretariat by mail at the above address or by phone at (202) 418–5100.

Other materials submitted by the CME in support of the applications for contract market designation may be available upon request pursuant to the Freedom of Information Act (5 U.S.C. 552) and the Commission's regulations thereunder (17 CFR Part 145 (1987)), except to the extent they are entitled to confidential treatment as set forth in 17 CFR 145.5 and 145.9. Requests for copies of such materials should be made to the FOI, Privacy and Sunshine Act Compliance Staff of the Office of the Secretariat at the Commission's headquarters in accordance with 17 CFR 145.7 and 145.8.

Any person interested in submitting written data, views, or arguments on the proposed terms and conditions, or with respect to other materials submitted by the CME, should send such comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, Three Lafayette Centre, 21st Street, NW., Washington, DC 20581 by the specified date.

Issued in Washington, DC, on January 21, 1997.

Blake Imel,

Acting Director.

[FR Doc. 97–1896 Filed 1–24–97; 8:45 am]

BILLING CODE 6351–01–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Meeting of the DOD Advisory Group on Electron Devices

AGENCY: Department of Defense, Advisory Group on Electron Devices.

ACTION: Notice.

SUMMARY: The DoD Advisory Group on Electron Devices (AGED) announces a closed session meeting.

DATES: The meeting will be held at 0900, Tuesday, 4 February 1997.

ADDRESSES: The meeting will be held at Palisades Institute for Research Services, 1745 Jefferson Davis Highway, Suite 500, Arlington, VA 22202.

FOR FURTHER INFORMATION CONTACT: Mr. Eliot Cohen, AGED Secretariat, 1745 Jefferson Davis Highway, Crystal Square Four, Suite 500, Arlington, Virginia 22202.

SUPPLEMENTARY INFORMATION: The mission of the Advisory Group is to provide advice to the Under Secretary of Defense for Acquisition and Technology, to the Director of Defense Research and Engineering (DDR&E), and through the DDR&E to the Director, Defense Advanced Research Projects Agency and the Military Departments in planning and managing an effective and economical research and development program in the area of electron devices.

The AGED meeting will be limited to review of research and development programs which the Military Departments propose to initiate with industry, universities or in their laboratories. The agenda for this meeting will include programs on Radiation Hardened Devices, Microwave Tubes, Displays and Lasers. The review will include details of classified defense programs throughout.

In accordance with Section 10(d) of Pub. L. No. 92–463, as amended (5 U.S.C. App. 10(d) (1994)), it has been determined that this Advisory Group meeting concerns matters listed in 5 U.S.C. 552b(c)(1) (1994), and that accordingly, this meeting will be closed to the public.

Dated: January 21, 1997.

L.M. Bynum,

Alternate, OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 97–1804 Filed 1–24–97; 8:45 am]

BILLING CODE 5000–04–M

Meeting of the DOD Advisory Group on Electron Devices

AGENCY: Department of Defense, Advisory Group on Electron Devices.

ACTION: Notice.

SUMMARY: Working Group A (Microwave Devices) of the DoD Advisory Group on Electron Devices (AGED) announces a closed session meeting.

DATES: The meeting will be held at 0900, Wednesday, February 5, 1997.

ADDRESSES: The meeting will be held at Palisades Institute for Research Services, 1745 Jefferson Davis Highway, Suite 500, Arlington, VA 22202.

FOR FURTHER INFORMATION CONTACT: Walter Gelnovatch, AGED Secretariat, 1745 Jefferson Davis Highway, Crystal Square Four, Suite 500, Arlington, Virginia 22202.

SUPPLEMENTARY INFORMATION: The mission of the Advisory Group is to provide advice to the Under Secretary of Defense for Acquisition and Technology, to the Director of Defense Research and Engineering (DDR&E), and through the DDR&E to the Director, Defense Advanced Research Projects Agency (ARPA) and the Military Departments in planning and managing an effective and economical research and development program in the area of electron devices.

The Working Group A meeting will be limited to review of research and development programs which the Military Departments propose to initiate with industry, universities or in their laboratories. This microwave device area includes programs on developments and research related to microwave tubes, solid state microwave devices, electronic warfare devices, millimeter wave devices, and passive devices. The review will include details of classified defense programs throughout.

In accordance with Section 10(d) of Pub. L. No. 92–463, as amended, (5 U.S.C. App. § 10(d) (1994)), it has been determined that this Advisory Group meeting concerns matters listed in 5 U.S.C. § 552b(c)(1) (1994), and that accordingly, this meeting will be closed to the public.

Dated: January 21, 1997.

L.M. Bynum,

Alternate, OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 97–1805 Filed 1–24–97; 8:45 am]

BILLING CODE 5000–04–M

Meeting of the DOD Advisory Group on Electron Devices

AGENCY: Department of Defense, Advisory Group on Electron Devices.

ACTION: Notice.

SUMMARY: Working Group B (Microelectronics) of the DoD Advisory Group on Electron Devices (AGED) announces a closed session meeting.

DATES: The meeting will be held at 0900, Thursday, 6 February 1997.

ADDRESSES: The meeting will be held at Palisades Institute for Research Services, 1745 Jefferson Davis Highway, Suite 500, Arlington, VA 22202.

FOR FURTHER INFORMATION CONTACT: Walter Gelnovatch, AGED Secretariat, 1745 Jefferson Davis Highway, Crystal Square Four, Suite 500, Arlington, Virginia 22202.

SUPPLEMENTARY INFORMATION: The mission of the Advisory Group is to provide advice to the Under Secretary of Defense for Acquisition and Technology, to the Director Defense Research and Engineering (DDR&E), and through the DDR&E, to the Director Defense Advanced Research Projects Agency and the Military Departments in planning and managing an effective research and development program in the field of electron devices.

The Working Group B meeting will be limited to review of research and development programs which the military proposes to initiate with industry, universities or in their laboratories. The microelectronics area includes such programs on semiconductor materials, integrated circuits, charge coupled devices and memories. The review will include classified program details throughout.

In accordance with Section 10(d) of Pub. L. No. 92–463, as amended, (5 U.S.C. App. § 10(d) (1994)), it has been determined that this Advisory Group meeting concerns matters listed in 5 U.S.C. 552b(c)(1) (1994), and that accordingly, this meeting will be closed to the public.

Dated: January 21, 1997.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 97–1806 Filed 1–24–97; 8:45 am]

BILLING CODE 5000–04–M

Meeting of the DOD Advisory Group on Electron Devices

AGENCY: Department of Defense, Advisory Group on Electron Devices.

ACTION: Notice.

SUMMARY: Working Group C (Electro-Optics) of the DoD Advisory Group on Electron Devices (AGED) announces a closed session meeting.

DATES: The meeting will be held at 0900, Wednesday and Thursday, 29–30 January 1997.

ADDRESSES: The meeting will be held at Palisades Institute for Research Services, 1745 Jefferson Davis Highway, Suite 500, Arlington, VA 22202.

FOR FURTHER INFORMATION CONTACT: Elise Rabin, AGED Secretariat, 1745 Jefferson Davis Highway, Crystal Square Four, Suite 500, Arlington, Virginia 22202.

SUPPLEMENTARY INFORMATION: The mission of the Advisory Group is to provide advice to the Under Secretary of Defense for Acquisition and Technology, to the Director of Defense Research and Engineering (DDR&E), and through the DDR&E to the Director, Defense Advanced Research Projects Agency and the Military Departments in planning and managing an effective and economical research and development program in the area of electron devices.

The Working Group C meeting will be limited to review of research and development programs which the Military Departments propose to initiate with industry, universities or in their laboratories. This opto-electronic device area includes such programs as imaging device, infrared detectors and lasers. The review will include details of classified defense programs throughout.

In accordance with Section 10(d) of Pub. L. No. 92–463, as amended, (5 U.S.C. App. § 10(d) (1994)), it has been determined that this Advisory Group meeting concerns matters listed in 5 U.S.C. § 552b(c)(1) (1994), and that accordingly, this meeting will be closed to the public.

Dated: January 21, 1997.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 97–1807 Filed 1–24–97; 8:45 am]

BILLING CODE 5000–04–M

U.S. Strategic Command Strategic Advisory Group

AGENCY: Department of Defense, USSTRATCOM.

ACTION: Notice.

SUMMARY: The Strategic Advisory Group (SAG) will meet in closed session on April 3 and 4, 1997. The mission of the SAG is to provide timely advice on scientific, technical, and policy-rated issues to the Commander in Chief, U.S. Strategic Command, during the development of the nation's strategic warplans. At this meeting, the SAG will discuss strategic issues that relate to the development of the Single Integrated Operational Plan (SIOP). Full development of the topics will require discussion of information classified TOP SECRET in accordance with Executive Order 12958, April 17, 1995.

Access to this information must be strictly limited to personnel having requisite security clearances and specific need-to-know. Unauthorized disclosure of the information to be discussed at the SAG meeting could have exceptionally grave impact upon national defense

In accordance with section 10(d) of the Federal Advisory Committee Act, (5 U.S.C. App 2), it has been determined that this SAG meeting concerns matters listed in 5 USC 552b(c) and that, accordingly, this meeting will be closed to the public.

Dated: January 21, 1997.

L.M. Bynun,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 97–1808 Filed 1–24–97; 8:45 am]

BILLING CODE 5000–04–M

Department of Air Force

USAF Scientific Advisory Board Meeting

The Joint Modeling and Simulation System (JMASS) ''Quick Look'' Study in supporting of the HQ USAF Scientific Advisory Board will meet 11–12 February 1997 at George Mason University, Fairfax, VA from 8:00 a.m. to 5:00 p.m.

The purpose of the meeting is to evaluate the usefulness of the JMASS as a specific tool for the Air Force B–1 defensive system upgrade program and a modeling architecture for triservice approaches.

The meeting will be closed to the public in accordance with Section 552b of Title 5, United States Code, specifically subparagraphs (1) and (4) thereof.

For further information, contact the HQ USAF Scientific Advisory Board Secretariat at (703) 697–8404.

Carolyn A. Lunsford,

Air Force Federal Register Liaison Officer.

[FR Doc. 97–1900 Filed 1–24–97; 8:45 am]

BILLING CODE 3910–01–M

Department of the Air Force

USAF Scientific Advisory Board Meeting

The Spring General Board Meeting of the HQ USAF Scientific Advisory Board will meet 30 April–2 May 1997 at Air Education and Training Command, Randolph AFB, TX from 8:00 a.m. to 5:00 p.m.

The purpose of the meeting is for the members to receive feedback on studies of the past year and hear special briefing on the upcoming year's focus.

The meeting will be closed to the public in accordance with Section 552b of Title 5, United States Code, specifically subparagraphs (1) and (4) thereof.

For further information, contact the HQ USAF Scientific Advisory Board Secretariat at (703) 697–8404.

Carolyn A. Lunsford,

Air Force Federal Register Liaison Officer.

[FR Doc. 97–1901 Filed 1–24–97; 8:45 am]

BILLING CODE 3910–1–M

DEFENSE NUCLEAR FACILITIES SAFETY BOARD

Privacy Act; Systems of Records

AGENCY: Defense Nuclear Facilities Safety Board.

ACTION: Annual notice of systems of records.

SUMMARY: Each Federal agency is required by the Privacy Act of 1974, 5 U.S.C. 552a, to publish annually a description of the systems of records it maintains containing personal information. In this notice the Board provides the required information on five previously-noticed systems of records.

FOR FURTHER INFORMATION CONTACT: Robert M. Andersen, General Counsel, Defense Nuclear Facilities Safety Board, 625 Indiana Avenue, NW., Suite 700, Washington, DC 20004–2901, (202) 208–6387.

SUPPLEMENTARY INFORMATION: The Board currently maintains five systems of records under the Privacy Act. Each system is described below.

DNFSB–1

SYSTEM NAME:

Personnel Security Files.

SECURITY CLASSIFICATION:

Unclassified materials.

SYSTEM LOCATION:

Defense Nuclear Facilities Safety Board, 625 Indiana Avenue, NW., Washington, DC 20004–2901.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees and applicants for employment with DNFSB and DNFSB contractors; consultants; other individuals requiring access to classified materials and facilities.

CATEGORIES OF RECORDS IN THE SYSTEM:

Personnel security folders and requests for security clearances, Forms SF 86, 86A, 87, 312, and DOE Forms 5631.18, 5631.29, 5631.20, and 5631.21. In addition, records containing the following information:

(1) Security clearance request information;

(2) Records of security education and foreign travel lectures;

(3) Records of any security infractions;

(4) Names of individuals visiting DNFSB;

(5) Employee identification files (including photographs) maintained for access purposes.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

National Defense Authorization Act, Fiscal Year 1989 (amended the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.) by adding new Chapter 21—Defense Nuclear Facilities Safety Board).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

DNFSB—to determine which individuals should have access to classified material and to be able to transfer clearances to other facilities for visitor control purposes.

DOE—to determine eligibility for security clearances.

Other Federal and State agencies—to determine eligibility for security clearances.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records, magnetic disk, and computer printouts.

RETRIEVABILITY:

By name, social security number, and numeric code.

SAFEGUARDS:

Access is limited to employees having a need to know. Records are stored in locked file cabinets in a controlled access area.

RETENTION AND DISPOSAL:

Records retention and disposal authorities are contained in the ''General Records Schedules'' published by National Archives and Records Administration, Washington, DC. Records within DNFSB are destroyed by shredding, burning, or burial in a sanitary landfill, as appropriate.

SYSTEM MANAGER(S) AND ADDRESS: Defense Nuclear Facilities Safety Board, 625 Indiana Avenue, NW., Suite 700, Washington, DC 20004-2901. Attention: Security Management Officer.

NOTIFICATION PROCEDURE:

Requests by an individual to determine if DNFSB–1 contains information about him/her should be directed to the Privacy Act Officer, Defense Nuclear Facilities Safety Board, 625 Indiana Avenue, NW., Suite 700, Washington, DC 20004-2901. Required identifying information: Complete name, social security number, and date of birth.

RECORD ACCESS PROCEDURE:

Same as Notification procedure above, except individual must show official photo identification, such as driver's license, passport, or government identification before viewing records.

CONTESTING RECORD PROCEDURE:

Same as Record Access procedure.

RECORD SOURCE CATEGORIES:

Subject individuals, Questionnaire for Sensitive Positions (SF–86), agency files, official visitor logs, contractors, and DOE Personnel Security Branch.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

DNFSB–2

SYSTEM NAME:

Administrative and Travel Files.

SYSTEM CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

Defense Nuclear Facilities Safety Board, 615 Indiana Ave., NW., Washington, DC 20004–2901.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees and applicants for employment with DNFSB, including DNFSB contractors and consultants.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records containing the following information:

(1) Time and attendance;

(2) Payroll actions and deduction information requests:

(3) Authorizations for overtime and night differential;

(4) Credit cards and telephone calling cards issued to individuals;

(5) Destination, itinerary, mode and purpose of travel;

(6) Date(s) of travel and all expenses;

(7) Passport number;

(8) Requests for advance of funds, and voucher with receipts;

(9) Travel authorizations;

(10) Employee relocation records;

(11) Name, address, social security number and birth date;

(12) Employee parking permits;

(13) Employee public transit subsidy applications and vouchers.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

National Defense Authorization Act, Fiscal Year 1989 (amended the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.) by adding new Chapter 21—Defense Nuclear Facilities Safety Board).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Treasury Department—To collect withheld taxes, print payroll checks, and issue savings bonds.

Internal Revenue Service—To process Federal income tax.

State and Local Governments—To process state and local income tax.

Office of Personnel Management—Retirement records and benefits.

Social Security Administration—Social Security records and benefits.

Department of Labor—To process Workmen's Compensation claims.

Department of Defense—Military Retired Pay Offices—To adjust Military retirement.

Savings Institutions—To credit accounts for savings made through payroll deductions.

Health Insurance Carriers—To process insurance claims.

General Accounting Office—Audit—To verify accuracy and legality of disbursement.

Veterans Administration—To evaluate veterans' benefits to which the individual may be entitled.

States' Departments of Employment Security—To determine entitlement to unemployment compensation or other state benefits.

Travel Agencies—To process travel itineraries.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records, magnetic disk, and computer printouts.

RETRIEVABILITY:

By name, social security number, travel dates, relocation dates, and alphanumeric code.

SAFEGUARDS:

Access is limited to employees having a need to know. Records are stored in locked file cabinets in a controlled access area in accordance with Board directives and Federal guidelines.

RETENTION AND DISPOSAL:

Records retention and disposal authorities are contained in the ''General Records Schedules'' published by National Archives and Records Administration, Washington, DC. Records within DNFSB are destroyed by shredding, burning, or burial in a sanitary landfill, as appropriate.

SYSTEM MANAGERS AND ADDRESS:

Defense Nuclear Facilities Safety Board, 625 Indiana Avenue, NW., Suite 700, Washington, DC 20004–2901, Attention: Director of Finance and Administration.

NOTIFICATION PROCEDURE:

Requests by an individual to determine if DNFSB–2 contains information about him/her should be directed to the Privacy Act Officer, Defense Nuclear Facilities Safety Board, 625 Indiana Avenue, NW, Suite 700, Washington, DC 20004–2901. Required identifying information: Complete name, social security number, and date of birth.

RECORDS ACCESS PROCEDURE:

Same as Notification procedures above, except individual must show official photo identification, such as driver's license, passport, or government identification before viewing records.

CONTESTING RECORD PROCEDURE:

Same as Record Access procedure.

RECORD SOURCE CATEGORIES:

Subject individuals, timekeepers, official personnel records, GSA for accounting and payroll, OPM for official personnel records, IRS and State officials for withholding and tax information, and travel agency contract.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

DNFSB–3

SYSTEM NAME:

Drug Testing Program Records—DNFSB.

SYSTEM CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

Primary System: Division of Personnel, Defense Nuclear Facilities Safety Board, 625 Indiana Avenue, NW, Washington, DC 20004–2901. Duplicate Systems: Duplicate systems may exist, in whole or in part, at contractor testing laboratories and collection/evaluation facilities.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

DNFSB employees and applicants for employment with the DNFSB.

CATEGORIES OF RECORDS IN THE SYSTEM:

These records contain information regarding results of the drug testing program; requests for and results of initial, confirmatory and follow-up testing, if appropriate; additional information supplied by DNFSB employees or employment applicants in challenge to positive test results; information supplied by individuals concerning alleged drug abuse by Board employees or contractors; and written statements or medical evaluations of attending physicians and/or information regarding prescription or nonprescription drugs.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

(1) Executive Order 12564; September 15, 1986.

(2) Section 503 of the Supplemental Appropriations Act of 1987, Pub. L. 100–71, 101 Stat. 391, 468–471, codified at 5 U.S.C. 7301 note (1987).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Information in these records may be used by the DNFSB management:

(1) To identify substance abusers within the agency;

(2) To initiate counseling and rehabilitation programs;

(3) to take personnel actions;

(4) To take personnel security actions; and

(5) For statistical purposes.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained on paper in file folders. Additionally, records used for initiating a random drug test are maintained on the Random Employee Selection Automation system. This is a stand-alone system resident on a desktop computer and is password-protected.

RETRIEVABILITY:

Records maintained in file folders are indexed and accessed by name and social security number. Records maintained for random drug testing are accessed by using a computer data based which contains employees' names, social security number, and job titles. Employees are then selected from the available pool by the computer, and a listing is given to the Drug Program Coordinator of employees and alternates selected for drug testing.

SAFEGUARDS:

Access to and use of these records is limited to those persons whose official duties require such access, with records maintained and used with the highest regard for personal privacy. Records in the Division of Human Resources are stored in an approved security container under the immediate control of the Director, Division of Human Resources, or designee. Records in laboratory/collection/evaluation facilities will be stored under appropriate security measures so that access is limited and controlled.

RETENTION AND DISPOSAL:

(1) Test results, whether negative or positive, and other drug screening records filed in the Division of Human Resources will be retained and retrieved as indicated under the Retrievability category. When an individual terminates employment with the DNFSB, negative test results will be destroyed by shredding, or by other approved disposal methods. Positive test results will be maintained through the conclusion of any administrative or judicial proceedings, at which time they will be destroyed by shredding, or by other approved disposal methods.

(2) Test results, whether negative or positive, on file in contractor testing laboratories, ordinarily will be maintained for a minimum of two years in the laboratories. Upon instructions provided by the Division of Human Resources, the results will be transferred to the Division of Human Resources when the contract is terminated or whenever an individual, previously subjected to urinalysis by the laboratory, terminates employment with the DNFSB. Records received from the laboratories by the Division of Human Resources will be incorporated into other records in the system, or if the individual has terminated, those records reflecting negative test results will be destroyed by shredding, or by other approved disposal methods. Positive test results will be maintained through the conclusion of any administrative or judicial proceedings, at which time they will be destroyed by shredding, or by other approved disposal methods.

(3) Negative specimens will be destroyed according to laboratory/contractor procedures.

(4) Positive specimens will be maintained through the conclusion of administrative or judicial proceedings.

SYSTEM MANAGERS AND ADDRESS:

Defense Nuclear Facilities Safety Board, 625 Indiana Avenue, NW, Suit 700, Washington, DC 20004–2901, Attention: Director of Human Resources.

NOTIFICTION PROCEDURE:

Requests by an individual to determine if DNFSB–3 contains information about him/her should be directed to Director of Human Resources, Defense Nuclear Facilities Safety Board, 625 Indiana Avenue, NW, Suite 700, Washington, DC 20004–2901. Required identifying information: Complete name, social security number.

RECORD ACCESS PROCEDURE:

Same as Notification procedures above, except individual must show official photo identification, such as driver license or government identification before viewing records.

CONTESTING RECORD PROCEDURE:

Same as Notification procedures above.

RECORD SOURCE CATEGORIES:

DNFSB employees and employment applicants who have been identified for drug testing, who have been tested, or who have admitted abusing drugs prior to being tested; physicians making statements regarding medical evaluations and/or authorized prescriptions for drugs; individuals providing information concerning alleged drug abuse by Board employees or contractors; DNFSB contractors for processing, including but not limited to, specimen collection, laboratories for analysis, and medical evaluations; and DNFSB staff administering the drug testing program to ensure the achievement of a drug-free workplace.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Pursuant to 5 U.S.C. 552a(k)(5), the Board has exempted portions of this system of records from 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(C), (H), and (J), and (f). The exemption is invoked for information in the system of records which would disclose the identity of a person who has supplied information on drug abuse by a Board employee or contractor.

DNFSB–4

SYSTEM NAME:

Personnel Files.

SYSTEM CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

Defense Nuclear Facilities Safety Board, 625 Indian Ave., NW, Washington, DC 20004–2901.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees and applicants for employment with the DNFSB, including DNFSB contractors and consultants.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records concerning the following information:

(1) Name, social security number, sex, date of birth, home address, grade level, and occupational code

(2) Official Personnel Folders (SF–66), Service Record Cards (SF–7), and SF–171

(3) Records on suggestions, awards, and bonuses

(4) Training requests, authorization data, and training course evaluations

(5) Employee appraisals, appeals, grievances, and complaints

(6) Employee disciplinary actions

(7) Employee retirement records

(8) Records on employment transfer

(9) Applications for employment with the DNFSB

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

National Defense Authorization Act, Fiscal Year 1989 (amended the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.) by adding new Chapter 21—Defense Nuclear Facilities Safety Board).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

GSA—Maintains official personnel records for DNFSB.

Office of Personnel Management—Transfer and retirement records and benefits, and collection of anonymous statistical reports.

Social Security Administration—Social Security records and benefits.

Federal, State, or Local government agencies—For the purpose of investigating individuals in connection with, security clearances, and administrative or judicial proceedings.

Private Organizations—For the purpose of verifying employees' employment status with the DNFSB.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records, magnetic disk, and computer printouts.

RETRIEVABILITY:

By name and social security number.

SAFEGUARDS:

Access is limited to employees having a need-to-know. Records are stored in locked file cabinets in a controlled access area in accordance with Board directives and Federal guidelines.

RETENTION AND DISPOSAL:

Records retention and disposal authorities are contained in the ''General Records Schedules'' published by National Archives and Records Administration, Washington, DC. Records within DNFSB are destroyed by shredding or burning, as appropriate.

SYSTEM MANAGER(S) AND ADDRESS:

Defense Nuclear Facilities Safety Board, 625 Indiana Avenue, NW, Suite 700, Washington, DC 20004–2901, Attention: Director of Human Resources.

NOTIFICATION PROCEDURE:

Requests by an individual to determine if DNFSB–4 contains information about him/her should be directed to Director of Human Resources, Defense Nuclear Facilities Safety Board, 625 Indiana Avenue, NW, Suite 700, Washington, DC 20004–2901. Required identifying information: Complete name, social security number, and date of birth.

RECORD ACCESS PROCEDURE:

Same as Notification procedures above, except individual must show official photo identification, such as driver license or government identification before viewing records.

CONTESTING RECORD PROCEDURE:

Same as Notification procedures above.

RECORD SOURCE CATEGORIES:

Subject individuals, official personnel records, GSA, OPM for official personnel records, State employment agencies, educational institutions, and supervisors.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

DNFSB–5

SYSTEN NAME:

Personnel Radiation Exposure Files.

SECURITY CLASSIFICATION:

Unclassified materials.

SYSTEM LOCATION:

Defense Nuclear Facilities Safety Board, 625 Indiana Avenue, NW, Washington, DC 20004–2901.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

DNFSB employees, contractors, and consultants.

CATEGORIES OF RECORDS IN THE SYSTEM:

Personnel folders containing radiation exposure and whole body count, including any records of mandatory training associated with site work or visits.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

National Defense Authorization Act, Fiscal Year 1989 (amended the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.) by adding new Chapter 21—Defense Nuclear Facilities Safety Board).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

DNFSB—to monitor radiation exposure of its employees and contractors.

DOE—to monitor radiation exposure of visitors to the various DOE facilities in the United States.

Other Federal and State Health Institutions—To monitor radiation exposure of DNFSB personnel.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records, magnetic disk, and computer printouts.

RETRIEVABILITY:

By name, social security number, and numeric code.

SAFEGUARDS:

Access is limited to employees having a need to know. Records are stored in locked file cabinets in a controlled access area.

RETENTION AND DISPOSAL:

Records retention and disposal authorities are contained in the ''General Records Schedules'' published by National Archives and Records Administration, Washington, DC. Records within DNFSB are destroyed by shredding, burning, or burial in a sanitary landfill, as appropriate.

SYSTEM MANAGER(S) AND ADDRESS:

Defense Nuclear Facilities Safety Board, 625 Indiana Avenue, NW, Suite 700, Washington, DC 20004–2901. Attention: Security Management Officer.

NOTIFICATION PROCEDURE:

Requests by an individual to determine if DNFSB–5 contains information about him/her should be directed to the Privacy Act Officer, Defense Nuclear Facilities Safety Board, 625 Indiana Avenue, NW, Suite 700, Washington, DC 20004–2901. Required identifying information: Complete name, social security number, and date of birth.

RECORD ACCESS PROCEDURE:

Same as Notification procedure above, except individual must show official photo identification, such as driver's license, passport, or government identification before viewing records.

CONTESTING RECORD PROCEDURE:

Same as Record Access procedure.

RECORD SOURCE CATEGORIES:

Subject individuals, previous employee records, DOE contractors' film badges, whole body counts, bioassays and dosimetry badges.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Dated: January 21, 1997.

John T. Conway,

Chairman.

[FR Doc. 97–1943 Filed 1–24–97; 8:45 am]

BILLING CODE 3670–01–M

DEPARTMENT OF EDUCATION

National Board of the Fund for the Improvement of Postsecondary Education; Meeting

AGENCY: National Board of the Fund for the Improvement of Postsecondary Education, Education.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the proposed agenda of a forthcoming meeting of the National Board of the Fund for the Improvement of Postsecondary Education. This notice also describes the functions of the Board. Notice of this meeting is required under Section 10(a)(2) of the Federal Advisory Committee Act.

DATES AND TIME: February 12, 1997 from 9:00 a.m. to 4:00 p.m.

ADDRESSES: Holiday Inn Capitol, 550 C Street, S.W., Washington, D.C. 20024.

FOR FURTHER INFORMATION CONTACT: Charles Karelis, Director, Fund for the Improvement of Postsecondary Education, 7th & D Streets, S.W., Washington, D.C. 20202. Telephone: (202) 708–5750.

SUPPLEMENTARY INFORMATION: The National Board of the Fund for the Improvement of Postsecondary Education (National Board) is established under Section 1003 of the Higher Education Act of 1965, as amended (20 U.S.C. 1135a–1). The National Board of the Fund is authorized to recommend to the Director of the Fund and the Assistant Secretary for Postsecondary Education priorities for funding and approval or disapproval of grants submitted to the Fund.

On February 12, 1997 from 9:00 a.m. to 4:00 p.m., the Board will meet in open session. The proposed agenda for the open portion of the meeting will include a review of FIPSE's operating principles, the revision of FIPSE's Comprehensive Program guidelines, an overview of the Comprehensive Program, the North American Mobility in Higher Education, the European Community/United States of America Joint Consortia for Cooperation in Higher Education and Vocational Education Program, and an orientation for new Board members.

Records are kept of all Board proceedings, and are available for public inspection at the Office of the Fund for the Improvement of Postsecondary Education, Room 3100, Regional Office Building #3, 7th & D Streets, S.W., Washington, D.C. 20202 from the hours of 8:00 a.m. to 4:30 p.m.

David A. Longanecker,

Assistant Secretary for Postsecondary Education.

[FR Doc. 97–1869 Filed 1–24–97; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Record of Decision: Environmental Impact Statement for the Continued Operation of the Pantex Plant and Associated Storage of Nuclear Weapon Components

AGENCY: Department of Energy.

ACTION: Record of decision.

SUMMARY: The Department of Energy is issuing this Record of Decision for the continued operation of the Pantex Plant and associated storage of nuclear weapon components. This Record of Decision is based on the information, analysis, and public comment contained in the *Final Environmental Impact Statement for the Continued Operation of the Pantex Plant and Associated Storage of Nuclear Weapon Components* (Pantex Plant EIS) (DOE/EIS–0225, November 1996). The Department has decided to implement the preferred alternative by: (1) Continuing nuclear weapon operations involving assembly and disassembly of nuclear weapons at the Pantex Plant; (2) implementing facility projects, including upgrades and construction consistent with conducting these operations; and (3) continuing to provide interim pit storage at the Pantex Plant and increasing the storage level from 12,000 to 20,000 pits.

FOR FURTHER INFORMATION CONTACT: For further information on or copies of the Pantex Plant EIS or other information related to this Record of Decision, please call 505–845-4351 or write to: Ms. Nanette D. Founds, Pantex Plant EIS Project Manager, EIS Project Office, U.S. Department of Energy, Albuquerque Operations Office, P.O. Box 5400, Albuquerque, New Mexico 87175–5400.

For information on the Department's National Environmental Policy Act (NEPA) process, please contact: Ms. Carol M. Borgstrom, Director, Office of NEPA Policy and Assistance, EH–42, U.S. Department of Energy, 1000 Independence Ave. SW., Washington, DC 20585, telephone 202-586–4600 or leave a message at 800–472–2756.

SUPPLEMENTARY INFORMATION: The Department of Energy has prepared this Record of Decision pursuant to the Council on Environmental Quality Regulations implementing the procedural provisions of NEPA (40 CFR Parts 1500–1508) and the Department's NEPA implementing regulations (10 CFR Part 1021). This Record of Decision is based on the *Final Environmental Impact Statement for the Continued Operation of the Pantex Plant and Associated Storage of Nuclear Weapon Components* (DOE/EIS–0225, November 1996), hereafter referred to as the Pantex Plant EIS, and other factors.

Background

Until 1989, Pantex Plant activities were closely coupled with operations at the Rocky Flats Plant, now the Rocky Flats Environmental Technology Site, near Denver, Colorado. Two of the Rocky Flats Plant's primary missions were: (1) The manufacture of plutonium components (pits) which were eventually transported to the Pantex Plant for final assembly into nuclear weapons, and (2) receipt of pits from the Pantex Plant from disassembled weapons for recovery, reprocessing, and fabrication of the special nuclear material into new pits. In December 1989, plutonium processing and pit fabrication operations at the Rocky Flats Plant were curtailed by the Department of Energy pending resolution of safety and environmental issues. The Pantex Plant continued to disassemble weapons, but shipments of pits from dismantled weapons between Pantex and Rocky Flats were suspended. The pits from those weapons were staged in Zone 4 at the Pantex Plant for later shipment to Rocky Flats. The Department had anticipated that shipments of pits to the Rocky Flats Plant would be reinitiated when processing activities in support of new weapons programs were resumed. Efforts to restart plutonium processing operations continued until January 1992, when they were terminated by the Department because of reduced requirements for nuclear weapons production in support of the national defense.

Because pit transfers were suspended, the Department prepared the *Environmental Assessment for Interim Storage of Plutonium Components at*

Pantex (DOE/EA–0812, January 1994) to analyze activities necessary to accommodate the interim storage of up to 20,000 pits from the Pantex Plant disassembly operations. The environmental assessment did not suggest that the environmental impacts from the storage of 20,000 pits would be significant. However, in response to comments received from the State of Texas, local officials, and other stakeholders, the Department committed to store no more than 12,000 pits at the Pantex Plant until an environmental impact statement for the site had been completed. Accordingly, the Department issued a Finding of No Significant Impact for interim storage of up to 12,000 pits at the Pantex Plant (59 FR 3674, January 26, 1994).

In May 1994, the Department published a Notice of Intent (NOI) (59 FR 26635, May 23, 1994) to prepare the Pantex Plant EIS. Among alternatives identified in the NOI for consideration in the Pantex Plant EIS was to continue Pantex Plant nuclear weapon operations and increase onsite storage of pits; a no action alternative continuing Pantex Plant nuclear weapon operations but maintaining the 12,000 pit storage level; and an alternative relocating some Pantex Plant nuclear weapon operations and some or all pit storage activities currently conducted at the Pantex Plant, including relocation of other nuclear component storage from other sites. An amended Notice of Intent (60 FR 32661, June 23, 1995) was issued to redefine the scope of the Pantex Plant EIS based on subsequent preparation of programmatic EISs, analyses of potential interim storage locations, and public scoping comments. Under the revised scope, the Pantex Plant EIS evaluated potential environmental impacts of continued operation of the Pantex Plant, including the interim storage of pits at the Pantex Plant or alternate sites (Nevada Test Site, Savannah River Site, Hanford Site, or Manzano Weapons Storage Facility at Kirtland Air Force Base) over an approximately 10-year period, and alternatives for relocating some or all Pantex Plant pit storage activities. The Pantex Plant EIS also examines cumulative impacts to Pantex by incorporating information from related programmatic EISs (see the discussion below entitled *Other Decisions and Environmental Impact Statements Related to the Pantex Plant*).

In March 1996, the Department published the *Draft Environmental Impact Statement for the Continued Operation of Pantex Plant and Associated Storage of Nuclear Weapon Components* and announced its availability in the Federal Register (61 FR 15232, April 5, 1996). The comment period for the Draft Pantex Plant EIS began on April 5, 1996, and originally would have ended on July 5, 1996, but was extended to July 12, 1996 (61 FR 18726, April 29, 1996). During the comment period, public hearings were held in Amarillo, Texas; North Las Vegas, Nevada; North Augusta, South Carolina; Albuquerque, New Mexico; and Richland, Washington. The meetings held in Amarillo and North Augusta were conducted in concert with the *Draft Stockpile Stewardship and Management Programmatic Environmental Impact Statement* (SSM PEIS) (DOE/EIS–0236, February 1996) and the *Storage and Disposition of Weapons-Usable Fissile Material Draft Environmental Impact Statement* (S&D PEIS) (DOE/EIS–0229, February 1996). In addition, a Technical Exchange Meeting was held in Amarillo with representatives from the State of Texas and local governments, and the public. All comments received during the public comment period were considered for potential changes or additions to the Final Pantex Plant EIS. Volume III of the Final Pantex Plant EIS contains the comments received and the Department's responses to those comments, and identifies the areas where changes were made to the Pantex Plant EIS.

Alternatives Considered

The scope of the Pantex Plant EIS included assessing the impacts of operations performed at the Pantex Plant on the natural and physical environment and the relationships of people to that environment. The scope also included issues raised during the scoping and public comment periods. Among the areas of public interest were plant facilities and infrastructure, land resources (particularly agricultural resources), geology and soils (including the current environmental restoration program), water (particularly protection of the Ogallala aquifer), air quality (especially related to burning of high explosives and other material), acoustics, biotic resources, cultural resources, socioeconomics, intrasite transportation, waste management, human health, potential aircraft accidents, intersite transportation of nuclear and hazardous materials, and environmental justice. In addition to these analyses for each site, Pantex Plant potential mitigation measures, unavoidable impacts, irreversible and irretrievable commitment of resources, impacts on long-term productivity, and cumulative impacts were assessed.

The Pantex Plant EIS examined impacts across a reasonable range of activity levels by assessing the operations on 2,000, 1,000, and 500 weapons per year. These levels of weapons operations could involve any mix of nuclear weapons assemblies, disassemblies, retrofits, rebuilds, and quality assurance inspections. The scope also included those areas of the environment that might be impacted at the four candidate sites considered for the possible relocation of interim pit storage activities from the Pantex Plant. These candidate sites were the Nevada Test Site, near Las Vegas, Nevada; the Savannah River Site, near Aiken, South Carolina; the Hanford Site, near Richland, Washington; and Kirtland Air Force Base, near Albuquerque, New Mexico. The Pantex Plant EIS assessed activities over a period of approximately 10 years. The Pantex Plant EIS alternatives were the Proposed Action, No Action Alternative, and Relocation of Interim Pit Storage Alternative, as discussed in the following paragraphs.

Proposed Action (Preferred Alternative): The Department proposed to continue nuclear weapon operations at the Pantex Plant, increase the maximum level of interim storage from 12,000 pits to 20,000 pits, and implement necessary facility projects consistent with conducting these operations. Types of operations conducted at the Pantex Plant include the assembly, disassembly, modification, and maintenance of nuclear weapons; surveillance of the weapons stockpile; production of high explosives components for nuclear weapons; quality assurance evaluation and testing of weapon components; and research and development activities supporting nuclear weapons. For the facility projects, only the Hazardous Waste Treatment and Processing Facility involves the construction of a new facility that will add to the overall plant footprint. Although the Pit Reuse Facility will establish a new mission at the Pantex Plant, an existing facility will be modified to incorporate these new operations instead of building a new, separate structure. The remaining four projects will be located within existing structures vacated because of workload reductions. These projects are: the Pit Reuse Facility, Gas Analysis Laboratory, Materials Compatibility and Assurance Facility, Nondestructive Evaluation Facility, and the Metrology and Health Physics Calibration and Acceptance Facility.

No Action Alternative: The No Action Alternative is presented to provide a baseline for comparison with the Proposed Action. Under the No Action Alternative, the Department would continue current operations at the

Pantex Plant as described under the Proposed Action, but would cease weapons dismantlement after a storage level of 12,000 pits was reached. Only previously approved and funded projects would be implemented under this alternative. No new facilities would be constructed as described under the Proposed Action. Failure to construct one of these new projects (the Hazardous Waste Treatment and Processing Facility) would limit the Plant's waste treatment and processing capability to a level that would not meet the Department's objectives for improvements in environment, safety, and health conditions and operational efficiency, and would not fulfill an agreement reached with the State of Texas under the Federal Facility Compliance Act.

Relocation of Interim Pit Storage Alternative: Under this alternative, the Department would transfer pit storage operations to another site. All other operations, upgrades, and new projects would be the same as for the Proposed Action. There are two options under this alternative: the relocation of up to 20,000 pits from the Pantex Plant, or the relocation of up to 8,000 pits from the Pantex Plant, leaving 12,000 pits at the Pantex Plant. The candidate sites, which provided a reasonable range of geographic, operational, and environmental alternatives, were the Nevada Test Site, the Savannah River Site, the Hanford Site, and the Manzano Weapons Storage Facility at Kirtland Air Force Base.

Preferred Alternative

Based on its analyses, the Department announced a preferred alternative in the Notice of Availability for the Pantex Plant Draft EIS (61 FR 15232, April 5, 1996) and in the Final Pantex Plant EIS. The Preferred Alternative is the Proposed Action, to continue nuclear weapons operations at the Pantex Plant, to implement facility projects including upgrades and construction consistent with performing these operations, and to provide interim storage for up to 20,000 pits at the Pantex Plant. This Record of Decision selects the Preferred Alternative for implementation.

Evaluation of Alternatives

Only the Pantex Plant was analyzed for continued weapons operations; however, four alternative sites (Nevada Test Site, Savannah River Site, Hanford Reservation, and Kirtland Air Force Base) in addition to the Pantex Plant were evaluated for interim storage of up to 20,000 plutonium pits. Each of the alternatives were evaluated for three potential levels of activity (operations on 2,000, 1,000, and 500 weapons per year) at the Pantex Plant. The principal differences among the alternatives lie in the number of pits that would be stored at the Pantex Plant and the new projects that would be implemented.

Environmental Impacts of the Alternatives

Impacts to facilities and infrastructure, land resources, air quality, acoustics, cultural resources, and environmental justice were determined to be similar for each of the alternatives. Water usage and wastewater production were found to be similar (less than 1 percent variation) under each of the alternatives. The main differences in impacts among the alternatives would involve the disturbance to soils and biotic resources due to construction of a new facility, radiation exposure to workers involved in the transfer of pits, and risks associated with aircraft accidents. These differences are generally small.

A suite of accident scenarios was evaluated in detail to encompass the range of accidents at the Pantex Plant that have the potential to affect workers or members of the public. For all alternatives evaluated in the Final Pantex Plant EIS, the dominant accident in terms of risk from radioactive releases to the public involves the crash of an aircraft into a weapons storage magazine, nuclear weapons assembly/disassembly bay or cell, or a special purpose building that results in the detonation of the conventional explosives in the weapons. The estimated risk associated with this potential accident is 7.2×10^{-6} excess cancer fatalities per year to the population within 80 kilometers (50 miles) of the Pantex Plant.

For all alternatives evaluated in the Final Pantex Plant EIS, the dominant accident scenario in terms of release of hazardous chemicals to the public involves the accidental release of up to 408 kilograms (900 pounds) of chlorine gas from the water treatment facilities. Approximately 10 percent of the public within 80 kilometers (50 miles) could be exposed to concentrations of chlorine that, if experienced for over an hour, could cause mild transient adverse health effects.

The potential for accidents that pose risks to worker safety exists at the Pantex Plant. These accidents include normal manufacturing and heavy equipment accidents, fires, and explosions. The types of accidents that could result in release of radioactive or hazardous material are bounded by those accidents discussed above. Although the accident is the same, the consequences to a worker tends to be more severe than to a member of the public. In the case of an explosion, the consequence to an affected worker is generally a fatality. In the case of a chlorine release, a higher exposure to chlorine is expected for a worker at the Pantex Plant, but no serious or long term health impacts would result.

All alternatives would result in unavoidable worker exposures to radiation from normal handling of plutonium pits during transfer and storage. Under the Preferred Alternative, workers at the Pantex Plant would receive an additional 17 person-rem as a result of storing and handling 20,000 pits instead of the 12,000 pits currently authorized. However, the 20,000-pit Relocation Alternative would result in an additional exposure of up to 283 person-rem due to additional pit handling and loading/unloading of the Safe Secure Tractor Trailers used to transport the pits to the alternative site. The Department will continue to strive to reduce radiological exposures to plant workers. Radiological exposures incurred from future weapons operations will be controlled and minimized by Pantex Plant procedures, administrative controls, and an active As Low As Reasonably Achievable exposure control program that promotes minimizing exposure of workers to radiation. Limits on allowable radiological exposures to workers are given in 10 CFR Part 835, Occupation Radiation Protection and safe radiological worker practices are described in the Pantex Radiological Control Manual. Health studies of Pantex Plant workers to date indicate that there has been no significant excess cancer mortality in the Pantex Plant area attributable to Pantex Plant operations. There have been no verifiable indications of any short-or long-term health impacts to workers at the Pantex Plant. Radiological exposure to non-involved workers and members of the public from Pantex Plant operations is effectively zero.

The Environmentally Preferable Alternative

The environmentally preferable alternative is defined as the alternative that would cause the least impact to the physical environment, and best protect worker and public health. According to the analysis conducted for the Pantex Plant EIS, the Preferred Alternative is the environmentally preferable alternative. Under the Preferred Alternative, the Pantex Plant would implement a new project (the Hazardous Waste Treatment and Processing Facility) to improve the efficiency of

low-level radioactive, hazardous, and mixed waste processing, provide greater environmental protection, and improve worker safety and health. For the Pit Reuse Facility, an existing facility would be modified instead of constructing a new facility. For the Gas Analysis Laboratory, Materials Compatibility Assurance Facility, Nondestructive Evaluation Facility, and Metrology and Health Physics Calibration and Acceptance Facility, current activities would be moved into existing facilities instead of constructing new facilities. Moving into existing facilities is environmentally preferred to construction of new facilities and No Action because the impacts of construction are avoided and worker safety is improved, respectively. Retaining interim storage of pits at the Pantex Plant would minimize the radiation exposure to workers and the public because the pits would be handled less than if they had to be shipped to another site for storage.

Comments on the Final Pantex Plant EIS

During the 30-day comment period which ended January 13, 1997, the Department received two letters regarding the Pantex Plant Final EIS. The first letter from the Environmental Protection Agency stated that the Agency's previous comments on the Pantex Plant Draft Environmental Impact Statement were addressed and offered no additional comments.

The second letter from the State of Tennessee, Department of Environment and Conservation, Department of Energy Oversight Division, expressed dissatisfaction regarding the Department's response in the Final Pantex Plant EIS to their previous comment regarding the shipment of depleted uranium from Pantex Plant to the Y–12 Plant at the Oak Ridge Reservation. As noted in the Final Pantex Plant EIS, the relocation of storage for nuclear components other than pits is not reasonable during the time period of the Pantex Plant EIS. Accordingly, highly enriched uranium and depleted uranium components must continue to be shipped from the Pantex Plant to the Y–12 Plant. The decisions announced in this Record of Decision will not affect the ongoing depleted uranium operations at the Y–12 Plant. The Y–12 Plant currently has existing storage capacity to accommodate the depleted uranium returns from the Pantex Plant. The amount of depleted uranium to be returned from the Pantex Plant is classified information. However, the amount of depleted uranium returned coupled with the existing site inventory will not surpass the historical maximum level of depleted uranium stored at the Y–12 Plant. The Department, through the Oak Ridge Operations Office, is working with the State of Tennessee to address their concerns and will provide a briefing to appropriately cleared State of Tennessee representatives on the depleted uranium activities in February 1997.

Decisions

The Department is making three decisions regarding continued operation of the Pantex Plant and associated storage of nuclear weapon components. Details of these decisions are as follows:

(1) *Continue current nuclear weapons operations:* The Final Pantex Plant EIS examines three levels of activity for weapons operations conducted at the Pantex Plant over the next 10 years. It is expected that the activity level for the next 3 to 5 years will be less than the 2,000 weapons level, and will then continue to decline to the 500 weapons level until SSM PEIS decisions are implemented.

(2) *Implement facility projects consistent with performing current Pantex Plant operations:* Six facilities were analyzed in the Final Pantex Plant EIS. For each facility, a proposed action, an alternative action, and no action were examined. The following describes the alternative selected for each facility:

Hazardous Waste Treatment and Processing Facility: The Department has selected the Proposed Action, to construct this facility, as described in Appendix H of the Pantex Plant EIS. Construction of the facility will enhance Pantex Plant low-level radioactive, hazardous, and mixed waste operations and will comply with an agreement reached with the State of Texas under the Federal Facility Compliance Act. This decision will be reviewed based on future decisions resulting from the Waste Management Programmatic Environmental Impact Statement (PEIS) to assure consistency with those programmatic decisions (see discussion below under *Other Decisions and Environmental Impact Statements*). The engineering design for this facility will proceed while the Department is completing the Waste Management PEIS process.

Pit Reuse Facility: The Department has selected the Proposed Action, to modify an existing Pantex Plant Zone 12 facility (Building 12–104) as described in Appendix H of the Pantex Plant EIS. This decision is consistent with the SSM PEIS Record of Decision (61 FR 68014, December 26, 1996).

Gas Analysis Laboratory, Materials Compatibility Assurance Facility, Nondestructive Evaluation Facility, and Metrology and Health Physics Calibration and Acceptance Facility: The Department has selected the Move to an Existing Facility Alternative at the Pantex Plant as described in Appendix H of the Pantex Plant EIS rather than constructing a new facility. This decision is consistent with the SSM PEIS Record of Decision.

The decision to move into existing facilities rather than build new ones will result in reduced environmental impacts because construction activities will be minimized. In addition, modifying existing facilities rather than constructing new facilities will reduce costs.

(3) *Continue providing interim pit storage at Pantex Plant and increase the authorized storage level to 20,000 pits:* This decision will allow the Pantex Plant to continue nuclear weapon dismantlement operations scheduled over the next 10 years until disposition decisions are made and implemented.

Mitigation Measures

Due to ongoing quality assurance, industrial hygiene, safety analysis, and other programs at the Pantex Plant and the level of impacts identified in the Pantex Plant EIS, no additional mitigation measures will be adopted for continued operations or storage activities at the Pantex Plant. However, because of a high level of public interest, activities associated with reducing the risk from aircraft accidents are worth special consideration here. Due to public concern regarding the risk of an aircraft crash at the Pantex Plant, an Overflight Working Group was formed, consisting of representatives of the Department of Energy, the Federal Aviation Administration, the U.S. Air Force, the State of Texas and the public, to address ways to reduce the number of aircraft flying over the Pantex Plant. Recommendations included such actions as modifying the path of approaching and departing aircraft from the Amarillo Airport to avoid flying over the Pantex Plant boundary, and installing additional equipment at the airport to aid in vectoring aircraft away from areas where nuclear material is kept. The Department has committed to implement the risk reduction measures recommended by this Overflight Working Group.

During preparation of the Pantex Plant EIS, the Pantex Plant also undertook mitigation measures to afford the public greater protection from a plutonium dispersal accident should such an accident occur. Physical

modifications to assembly cell doors were started to significantly reduce the amount of radioactive material that could leak from a cell in case of an accident. These modifications are projected to be completed by 1998.

Future Analytical Activities

The aircraft crash accident analysis of the Final EIS was based upon the Draft *Department of Energy Standard, Accident Analysis for Aircraft Crash into Hazardous Facilities* (July 1996). The Department will further refine the analysis of potential aircraft crash scenarios through Safety Analysis Reports, which will be prepared in accordance with the Final Standard, which was published in October 1996. The *Basis for Interim Operation* is the current safety authorization document for Pantex until formal Safety Analysis Reports can be completed and approved. This document will incorporate by reference the aircraft crash analyses. The analysis in the Final Pantex Plant EIS substantiates prior analyses that aircraft crashes at the Pantex Plant do not present a significant risk to Pantex workers or the surrounding communities. The Department, through the Safety Analysis Reports, will prepare more detailed, building-specific analyses for aircraft crash accidents. During this process, the Department will continue to apprise the State of Texas of our progress. Once complete, the Department will provide the State of Texas with the opportunity to thoroughly review all facets of the aircraft crash analyses, including evaluation, safety standards, and implementation of mitigation measures. The Department will encourage the Amarillo National Resource Center for Plutonium to provide the necessary resources to the State of Texas for this effort.

Other Decisions and Environmental Impact Statements Related to the Pantex Plant

Final Stockpile Stewardship and Management Programmatic Environmental Impact Statement (SSM PEIS): The SSM PEIS Record of Decision determined that there will be over time a downsizing of the weapons assembly/disassembly and high explosive component fabrication missions at the Pantex Plant. The decisions made today in this Record of Decision for the operation of the Pantex Plant over the next 10 years are consistent with those determinations. The SSM PEIS also evaluated storage alternatives for strategic reserve material (plutonium and highly enriched uranium that has not been declared surplus to national security needs). However, decisions on storage of strategic reserve materials are being made in the Record of Decision for the S&D PEIS regarding the storage of surplus materials (see below). In these documents, the preferred alternative is Zone 12 at the Pantex Plant for strategic reserve storage of plutonium pits and the Y–12 Plant at the Oak Ridge Reservation in Oak Ridge, Tennessee, for strategic reserve storage of highly enriched uranium.

Storage and Disposition of Weapons-Usable Fissile Materials Final Programmatic Environmental Impact Statement (S&D PEIS): The S&D PEIS Record of Decision (signed January 14, 1997) selected among alternatives for safe and secure storage of weapons-usable fissile materials and a strategy for the disposition of surplus weapons-usable plutonium. The Pantex Plant was selected for the storage of strategic reserve pits and surplus pits resulting from dismantlement operations in upgraded facilities in Zone 12. This decision included the transfer of pits from the Rocky Flats Environmental Technology Site to the Pantex Plant (as early as 1997) for storage in Zone 4 until upgraded facilities are available for consolidated storage in Zone 12. The Pantex Plant is also a potential site for disposition alternatives including a Federal government-owned mixed oxide fuel fabrication facility and a pit disassembly/conversion facility. Additional NEPA review will be completed before site selections are made.

Waste Management Programmatic Environmental Impact Statement (PEIS): The Waste Management PEIS provides a Department-wide evaluation of management alternatives for where to treat, store or dispose of radioactive and hazardous wastes. Pantex is one of 17 sites considered for treatment and disposal of low-level and mixed waste, as well as one of 11 sites evaluated for hazardous waste treatment. Under all options, Pantex would either manage only its own wastes or ship some or all of its waste to another site. The Final Waste Management PEIS, which will be issued shortly, will identify the Department's preferred alternatives for management of these wastes and the role of Pantex in these configurations.

Issued in Washington, DC, on January 17, 1997.

Hazel R. O'Leary,

Secretary.

[FR Doc. 97–1865 Filed 1–24–97; 8:45 am]

BILLING CODE 6450–01–P

Office of Energy Research

Energy Research Financial Assistance Program Notice 97–07; Atmospheric Radiation Measurement (ARM) Program

AGENCY: U.S. Department of Energy (DOE).

ACTION: Notice inviting grant applications.

SUMMARY: The Office of Health and Environmental Research (OHER) of the Office of Energy Research, U.S. Department of Energy (DOE), hereby announces its interest in receiving applications to support the experimental and theoretical study of radiation and clouds in conjunction with the Atmospheric Radiation Measurement (ARM) Program as part of the U.S. Global Change Research Program (USGCRP).

DATES: Formal applications submitted in response to this notice must be received by 4:30 p.m., EDT, April 29, 1997, to permit timely consideration for award in fiscal year 1998.

ADDRESSES: Formal applications should be forwarded to: U.S. Department of Energy, Office of Energy Research, Grants and Contracts Division, ER–64, 19901 Germantown Road, Germantown, MD 20874–1290, ATTN: Program Notice 97–07. This address also must be used when submitting applications by U.S. Postal Service Express Mail, any commercial mail delivery service, or when hand-carried by the applicant.

FOR FURTHER INFORMATION CONTACT: Dr. Patrick A. Crowley, Office of Health and Environmental Research, Environmental Sciences Division, ER–74, U.S. Department of Energy, 19901 Germantown Road, Germantown, MD 20874–1290. Telephone: (301) 903–3069, fax (301) 903–8519, or by Internet e-mail address, p.crowley@oer.doe.gov. Program information is available on the ARM WWW page: http://www.arm.gov.

SUPPLEMENTARY INFORMATION: This notice requests applications for grants to support the following four efforts:

(1) Continuation and enhancement of activities previously funded by DOE under the auspices of the ARM program via responses to earlier announcements.

(2) The modeling of clouds and radiation including aerosol effects for use in General Circulation Models (GCMs) and related models. Analysis of ARM and other data for refining, supporting, and validating model development are key aspects of research sought in this category. These activities should be closely tied to the analysis and use of data from the current and

planned facilities at three Cloud and Radiation Testbed sites: the first is centered near Lamont, Oklahoma; the second has instruments operating on the Island of Manus, Papua, New Guinea, and later will have other sites in the Tropical Western Pacific; and the third site in the North Slope of Alaska region.

(3) The extension of fundamental research results or methodology to the development and evaluation of new analytic methods and algorithms that take advantage of ARM data. Methods and algorithms that are proposed to evolve from these efforts must be suitable for automated use in the routine processing of ARM data streams. Successful applications will use data from current or projected ARM instruments (singly, in combination, or in combination with data from outside the ARM program, e.g. Satellite data), to provide new ARM community data streams of high credibility and useability within the ARM Science Team.

(4) The development of advanced instrumentation for high accuracy/precision radiometric observations and for profiling of all three phases of water in the atmosphere and lower stratosphere. Short wave radiometry is of particular present interest.

The use of ARM data to support activities in other programs with goals related to those of ARM through non-ARM funded participation in the ARM Science Team is encouraged. Researchers whose activities align with ARM goals and for whom this is a desirable option are encouraged to contact the ARM Program Office.

One of the major scientific objectives of the Environmental Sciences Division (ESD) is to improve the performance of predictive models of the Earth's climate and to thereby make predictions of the response of the climate system to increasing concentrations of greenhouse gases. The purpose of the ARM Program is to improve the treatment of radiation and clouds in the models used to predict future climate, particularly the General Circulation Models (GCMs). This program is one element of a major effort to improve the quality of current models and to support the development of sets of climate models capable of making regional prediction of climate and climate change. The major component of the ARM Program is an experimental testbed for the study of models of the terrestrial radiation field, properties of clouds, the full life cycle of clouds, and the incorporation of these process-level models into climate models. This testbed is referred to as the Cloud and Radiation Testbed (CART). The first ARM CART site began operation in calendar year 1992, with instruments spread over an area of approximately 60,000 sq. km., centered on Lamont, Oklahoma. The Tropical Western Pacific (TWP) site will consist initially of island-based suites of instrumentation focused on cloud and radiative properties in the tropical ocean environment. The first of the TWP Atmospheric Radiation and Clouds Stations (ARCS) is operating on the island of Manus, Papua New Guinea, and the second is planned for Nauru in 1998. Similar instrumentation will be deployed to a North Slope of Alaska site late in 1997.

To ensure that the program meets the broadest needs of the research community and the specific needs of the DOE, ESD, successful applicants will participate as ARM Science Team members along with selected scientists from other ESD programs that relate to the ARM Program. Costs for participation in ARM Science Team meetings and subcommittee meetings should be based on two trips of 1 week each to Washington, D.C., and two trips of 3 days each to Chicago, Illinois.

Successful applicants for continuation or enhancement of previously awarded grants will demonstrate (a) the continued relevance of their work to the goals of the ARM Program; (b) the quality and relevance of work conducted under previous support to the goals of the ARM Program, including a listing of publications and presentations; and (c) relevant contribution to the development of the ARM program under previous funding. Applications should include a special section covering items (b) and (c) entitled ''Accomplishments Under Previous Support.''

Successful applicants for grants in support of modeling of clouds and radiation will demonstrate the role of their research in the improvement of GCMs and/or related models and delineate the path that their results will take to make those improvements. Successful applicants will be involved in one or more of three activities: (a) the development of models and parameterization of radiative transfer or cloud processes, including aerosol effects, or the testing of these models in GCMs or process-level models; (b) experimental studies at CART facilities to test elements of models and their performance or to obtain key laboratory data; and/or (c) the analysis of existing data, including field data and satellite data, to support model development or testing.

Successful applicants for participation in the development of new analytic methods and derived data products, will demonstrate how the proposed efforts support the ARM Science Team members involved in the other categories of research. Applications in this area must recognize that the program has a developed infrastructure for data treatment and distribution. The support looked for in this area involves a deeper more sophisticated algorithmic approach than presently in use. The successful applications will accent a strong scientific approach to the problem of data fusion.

Because ARM is well into its intended life cycle, successful applicants for participation in the ARM instrument development program will meet either (1) immediate and near-term needs of the ARM Program for improved radiometric sensors, both broad-band and spectrally resolved or for instruments capable of high-precision radiometric calibration, or (2) immediate and near-term needs of the ARM Program for improved systems for the measurement of the spatial distribution of all three phases of water, with particular emphasis on vertical profiles. In each case the application should contain, in appropriate detail, a discussion of the accuracy and precision of the proposed measurement methodology as a function of wavelength or altitude respectively, and the relevance of the proposed measurements to test models of atmospheric radiative processes. It has been suggested that the data available from the array of instruments planned or in place in the program suffer from too little strongly calibrated short wave data. Applications which address this concern in the near term are anticipated to be of high interest.

Participants in the adjunct ARM Science Team will apply ARM data to research programs of interest to DOE and related to ARM goals, but are funded by other sources. While ARM data is available through the ARM Data Archive at Oak Ridge National Laboratory, ARM Science Team participation provides investigators the opportunity to receive tailored data products from the ARM Experiment Center at Pacific Northwest Laboratory and the opportunity to participate in the design of ARM facilities and experiments. While there will not be funds to support the research of applicants under this portion of this notice, some funds may be available to support the travel of successful applicants to participate in ARM Science Team activities as indicated below. Research interest and objectives must be strongly related to the general goals of ARM outlined above; Global

Energy and Water Experiment (GEWEX) and its associated programs; the study of aerosols and their effect on the radiative transfer, including visibility studies; and the transfer of UV–B radiation through the atmosphere.

The efforts proposed in support of all five categories should have as a focus the conduct of research using the CART facilities either in operation or being developed for ARM. Successful applicants will participate in the continuing development of the detailed experimental approaches for CART and guide the evolving development and acquisition of the experimental equipment.

It is anticipated that approximately $3,000,000 will be available for awards in fiscal year 1998, contingent upon availability of appropriated funds. Multiple year funding of awards is expected, also contingent upon availability of funds. The allocation of funds within the research areas will depend on the number and quality of the applications received. It is anticipated that a substantial fraction of the funds will support continuation of existing research. Typical ESD awards are $200,000 per year, but range from $50,000 to $600,000. Information about development, submission, and the selection process, and other policies and procedures may be found in 10 CFR Part 605, and in the Application Guide for the Office of Energy Research Financial Assistance Program. The Application Guide is available from the U.S. Department of Energy, Office of Health and Environmental Research, Environmental Sciences Division, ER–74, 19901 Germantown Road, Germantown, MD 20874–1290. Telephone requests may be made by calling (301) 903–3338. Electronic access to ER's Financial Assistance Guide is possible via the Internet using the following WWW site address: http://www.er.doe.gov/production/grants/grants.html.

Collaborative applications are encouraged. Awards are anticipated to begin on or about November 1, 1997.

The technical portion of the application should not exceed twenty-five (25) doubled-spaced pages. For applications requesting continuation or enhancements to previously awarded grants, the ''Accomplishments Under Previous Support'' section should not exceed ten (10) additional double-spaced pages. An abstract of less than 200 words must be included with the application. Lengthy appendices are discouraged.

Technical information on the ARM Program is available from the ARM Program Office at Pacific Northwest Laboratory, P.O. Box 999, Richland, WA 99352, telephone (509) 375–6964, or from the Office of Scientific and Technical Information, P.O. Box 62, Oak Ridge, TN 37831, telephone (615) 576–8401.

The Catalog of Federal Domestic Assistance Number for this program is 81.049, and the solicitation control number is ERFAP 10 CFR Part 605.

Issued in Washington, DC, on January 17, 1997.

John Rodney Clark,

Associate Director for Resource Management, Office of Energy Research.

[FR Doc. 97–1866 Filed 1–24–97; 8:45 am]

BILLING CODE 6450–01–P

Federal Energy Regulatory Commission

[Docket No. RP97–126–001]

Iroquois Gas Transmission System, L.P.; Notice of Proposed Changes in FERC Gas Tariff

January 21, 1997.

Take notice that on January 15, 1997, Iroquois Gas Transmission System, L.P. (Iroquois) tendered for filing to become part of its FERC Gas Tariff, First Revised Volume No. 1, revised tariff sheets, proposed to be effective January 1, 1997.

Iroquois states that the instant filing is to comply with the directives of the Commission's December 31, 1996 order issued in Docket No. RP97–126. Iroquois also requests a waiver of Section 154.203(b) to permit it to make certain other changes not required by the December 31 order.

Iroquois states that copies of its filing were served on all parties, all jurisdictional customers and interested state commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with 18 CFR 385.211 of the Commission's Rules of Practice and Procedures. All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 97–1834 Filed 1–24–97; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP97–196–001]

Mid Louisiana Gas Company; Notice of Proposed Changes in FERC Gas Tariff

January 21, 1997.

Take notice that on January 16, 1997, Mid Louisiana Gas Company (Mid Louisiana) tendered for filing to become part of its FERC Gas Tariff, Third Revised Volume No. 1, the following tariff sheets, with an effective date of December 31, 1996:

Substitute First Revised Sheet No. 188
Substitute First Revised Sheet No. 189

Mid Louisiana states that the filing of the Revised Tariff Sheet is in response to Commission Letter Order dated January 8, 1997, wherein the Commission directed Mid Louisiana to revise certain portions of Mid Louisiana's previous, December 16, 1996, filing.

Pursuant to Section 154.7(a)(7) of the Commission's Regulations, Mid Louisiana respectfully requests waiver of any requirement of the Regulations in order to permit the tendered tariff sheets to become effective December 31, 1996, as submitted.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests should be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 97–1835 Filed 1–24–97; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP97–197–000]

Shell Gas Pipeline Company; Notice of Request Under Blanket Authorization

January 21, 1997.

Take notice that on December 30, 1996, Shell Gas Pipeline Company (SGPC) 200 North Dairy Ashford, Houston, Texas 77079, filed in Docket No. CP97–197–000 a request pursuant to Sections 157.205 and 157.212 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.212) for authorization to establish a new delivery point in Plaquemines

Parish, Louisiana, under Shell's blanket certificate issued in Docket No. CP97–172–000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

Specifically, SGPC proposes to establish a new delivery point to Southern Natural Gas Company (Southern) at the Venice Gas Plant in Plaquemines Parish, Louisiana, by constructing approximately 10 feet of 16-inch piping and appurtenances to tie into SGPC's 16-inch transfer piping facilities at the Venice Plant yard. The new delivery point would be established from SGPC's Mississippi Canyon Gathering System (MCGS) to Southern and would have no impact on SGPC's authorized rates. SGPC indicates that up to 150 MMcf/day of natural gas can be delivered to Southern at this new point. SGPC also indicates that the new point will have no change in the 600 MMcf/day capacity of the 30-inch MCGS.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 97–1830 Filed 1–24–97; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP97–78–001]

South Georgia Natural Gas Company; Notice of Refund Report

January 21, 1997.

Take notice that on December 19, 1996, South Georgia Natural Gas Company (South Georgia) tendered for filing its refund report.

South Georgia states that the refund report sets forth the amount refunded on November 22, 1996 to all shippers who paid the volumetric take-or-pay surcharge during October 1996.

South Georgia states that copies of the filing have been served to all parties listed on the official service lists compiled by the Secretary in this proceeding.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests should be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 97–1833 Filed 1–24–97; 8:45 am]

BILLING CODE 6717–01–M

[Project No. 460–001]

City of Tacoma, Washington; Notice Requiring Service of Motion for Late Intervention

January 21, 1997.

On March 27, 1996, the Skokomish Watershed Coalition (Coalition) filed a late motion to intervene in the above-captioned proceeding. However, the Coalition's motion did not include a certificate of service, as required by Rule 2010 of the Commission's Rules of Practice and Procedure. See 18 CFR 385.2010(a). As a result, it appears that parties to these proceedings may not have been served and may not have had an opportunity to file answers to the Coalition's late motion.

The Coalition will not be required to refile its motion to intervene. However, before the Commission considers whether to grant late intervention, the Coalition must serve a copy of this motion on each person whose name appears on the official service list for this proceeding, and file a certificate of service with the Commission. The 15-day period for filing answers to the Coalition's motion will begin as of the date that the Coalition files its certificate of service. See 18 CFR 385.213(d).

Lois D. Cashell,

Secretary.

[FR Doc. 97–1832 Filed 1–24–97; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. GT97–15–000]

Transcontinental Gas Pipe Line Corporation; Notice of Refund Report

January 21, 1997.

Take notice that on December 9, 1996, Transcontinental Gas Pipe Line Corporation (Transco) tendered for filing with the Federal Energy Regulatory Commission (Commission) an amendment of a refund report in accordance with Section 8.01(i) of Transco's NIPPs–SE Rate Schedules x-315, x-318, and x-324.

Transco states that on June 11, 1996, it received a refund report from National Fuel Gas Supply Corporation (National Fuel) related to transportation which Transco utilized to render service under its Rate Schedules NIPPs–SE, LSS, and SS–2 for the time period 6/1/95 to 3/31/96. An error in the calculation of the NIPPS–SE portion of the refund, resulted in an over-refunded amount to Transco. With an original Demand Flow Through Refund of $126,048.26 and a corrected Demand Flow Through of $73,550.10 the adjustment is $52,498.16 which Transco paid National Fuel on November 27, 1996.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 214 or 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211). All such motions or protests should be filed on or before January 28, 1997. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 97–1831 Filed 1–24–97; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP97–229–000]

U–T Offshore System; Notice of Proposed Changes in FERC Gas Tariff

January 21, 1997.

Take notice that on January 16, 1997, U–T Offshore System (U–TOS) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, the following tariff sheets, to become effective February 1, 1997:

Fourth Revised Sheet No. 4,

Second Revised Sheet No. 33,
Second Revised Sheet No. 34,
Original Sheet No. 34A,
First Revised Sheet No. 54,
Second Revised Sheet No. 54A, and
Fifth Revised Sheet No. 73

U–TOS asserts that the purpose of this filing is to comply with the Commission's October 12, 1993, letter order in the captioned proceeding, U–T Offshore System, 65 FERC ¶61,054 (1993) that approved U–TOS' line pack settlement. In addition, take notice that U–TOS also filed, also assertedly in compliance with such Commission letter order, Final Reports of line pack surcharge collections and payments which reflect the completion of the line pack cost recovery and disbursement process as of December 20, 1996.

U–TOS states that the purpose of these filings is to reflect the completion of the line pack recovery and disbursement process contemplated by its approved line pack settlement, and the removal of the line pack commodity surcharge provisions that were contained in Section 15 of the General Terms and Conditions and related provisions of U–TOS' tariff in light of such completed process.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of these filings are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 97–1838 Filed 1–24–97; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP97–220–001]

Williams Natural Gas Company; Notice of Proposed Changes in FERC Gas Tariff

January 21, 1997.

Take notice that on January 13, 1997, Williams Natural Gas Company (WNG), tendered for filing to become part of its FERC Gas Tariff, Second Revised Volume No. 1, Substitute Third Revised Sheet Nos. 8C and 8D, with the proposed effective date of February 1, 1997.

WNG states that on December 31, 1996, it filed, pursuant to Article 14 of the General Terms and Conditions of its FERC Gas Tariff, Second Revised Volume No. 1, its first quarter 1997 report of take-or-pay buyout, buydown and contract reformation costs and gas supply related transition costs, and the application or distribution of those costs and refunds.

WNG states that the instant filing is being made to revise Schedule 4 of the original filing to reflect revision of certain customers' January MDTQ's which were not finalized until after January 1, 1997. All other aspects of WNG's December 31 filing are unchanged.

WNG states that a copy of its filing was served on all participants listed on the service lists maintained by the Commission in the dockets referenced above and on all of WNG's jurisdictional customers and interested state commissions.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 97–1836 Filed 1–24–97; 8:45 am]

BILLING CODE 6717–01–M

[Docket Nos. RP97–227–000 and TM97–2–49–001]

Williston Basin Interstate Pipeline Company; Notice of Proposed Changes in FERC Gas Tariff

January 21, 1997.

Take notice that on January 14, 1997, Williston Basin Interstate Pipeline Company (Williston Basin), tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1 and Original Volume No. 2, the following revised tariff sheets to become effective January 1, 1997:

Second Revised Volume No. 1

Twenty-second Revised Sheet No. 15
Twenty-fifth Revised Sheet No. 16
Twenty-second Revised Sheet No. 18
Nineteenth Revised Sheet No. 21

Original Volume No. 2

Sixty-sixth Revised Sheet No. 11B

Williston Basin states that it has determined that the take-or-pay amounts associated with Docket No. RP96–93–000 have been fully recovered as of December 31, 1996. As a result, the instant tariff sheets reflect the elimination of the throughput surcharge associated with Docket No. RP96–93–000, effective January 1, 1997. Williston Basin further states that it will file a final reconciliation of such throughput surcharge at the time of its next annual reconciliation, to be filed May 30, 1997, at which time all appropriate accounting will be finalized. At that time, Williston Basin will propose a mechanism for final disposition of any overcollections.

Williston Basin also states that on December 31, 1996, it filed its Semi-annual Fuel Reimbursement Adjustment filing in Docket No. TM97–2–49–000. The tariff sheets in that filing reflected an effective date of February 1, 1997. Therefore, Williston Basin filed the following revised tariff sheets to its December 31, 1996 filing in Docket No. TM97–2–49–000 to reflect the reduction in the take-or-pay surcharge reflected in the instant filing:

Second Revised Volume No. 1

Sub Twenty-first Revised Sheet No. 15
Sub Twenty-fourth Revised Sheet No. 16
Sub Twenty-first Revised Sheet No. 18
Sub Eighteenth Revised Sheet No. 21

Original Volume No. 2

Sub Sixty-fifth Revised Sheet No. 11B

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street N.W., Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are

available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 97–1837 Filed 1–24–97; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP97–156–000]

Hopkinton LNG Corporation; Notice of Intent To Prepare an Environmental Assessment for the Proposed Hopkinton LNG Project and Request for Comments on Environmental Issues

January 21, 1997.

The staff of the Federal Energy Regulatory Commission (FERC or Commission) will prepare an environmental assessment (EA) that will discuss the environmental impacts of the operation of facilities at the Hopkinton, Massachusetts LNG Plant. This EA will be used by the Commission in its decision-making process to determine whether an environmental impact statement is necessary and whether to approve the project.[1]

Summary of the Proposed Project

Hopkinton LNG Corporation (Hopkinton) is seeking approval to operate in interstate commerce an existing liquefied natural gas (LNG) peak-shaving facility located in Hopkinton, Massachusetts. The facility is owned by Hopkinton and operated and maintained by Air Products and Chemicals, Inc. (APCI). The LNG facility is currently operated to provide LNG storage, liquefaction, and vaporization services to Commonwealth Gas Company (Commonwealth), Hopkinton's affiliated local distribution company. Commonwealth no longer needs as much of Hopkinton's capacity to support its local distribution operations as it has in the past. Therefore, Hopkinton requests authorization to lease to COM/Energy Resources, Inc. (Resources), its affiliated marketing company, the capacity in the Hopkinton LNG facility that is not required by Hopkinton to serve Commonwealth on a firm basis. Resources would use the leased capacity to support its own natural gas marketing activities and would not provide any LNG storage, liquefaction, or vaporization services to third parties.

Existing Facilities

The Hopkinton LNG Plant was constructed in 1967 and consists of natural gas liquefaction, LNG storage, and LNG revaporization facilities. The plant was designed to supply Commonwealth's gas utility needs by liquefying and storing natural gas in the summer for revaporization during peak periods in the winter heating season. The Hopkinton LNG Plant has a design liquefaction rate of 17 million cubic feet per day (MMCFD) and a sendout capacity of 240 MMCFD. The LNG is stored in three 290,000-barrel LNG storage tanks.

The Hopkinton LNG Plant receives gas for liquefaction and storage through the facilities of Tennessee Gas Pipeline. Although not used to date, the plant is also able to receive gas through the facilities of Algonquin Gas Transmission. Additionally, the plant can receive LNG by tanker truck.

Proposed Facilities

Hopkinton does not propose any new facilities or any modifications to existing facilities. The Hopkinton LNG Plant would continue to be operated and maintained by APCI on behalf of Hopkinton.

The location of the Hopkinton LNG Plant is shown in appendix 1.[2]

Land Requirements for Construction

No additional land is required since Hopkinton does not propose any additions or modifications to the existing facility.

The EA Process

The National Environmental Policy Act (NEPA) requires the Commission to take into account the environmental impacts that could result from an action whenever it considers the issuance of a certificate of public convenience and necessity. NEPA also requires us to discover and address concerns the public may have about proposals. We call this ''scoping''. The main goal of the scoping process is to focus the analysis in the EA on the important environmental issues. By this Notice of Intent, the Commission requests public comments on the scope of the issues it will address in the EA. All comments received are considered during the preparation of the EA. State and local government representatives are encouraged to notify their constituents of this proposed action and encourage them to comment on their areas of concern.

Because the LNG plant is an existing facility and no new additions or modifications are proposed, the EA will focus on the operation of the proposed project, the cryogenic design aspects of the plant, and public safety including LNG trucking.

Prior to finalizing the EA, the FERC staff will meet with representatives of Hopkinton (time and location to be noticed at a later date) to conduct a cryogenic design and engineering review of the LNG facility at Hopkinton, Massachusetts.

Our independent analysis of the issues will be in the EA. Depending on the comments received during the scoping process, the EA may be published and mailed to Federal, state, and local agencies, public interest groups, interested individuals, affected landowners, newspapers, libraries, and the Commission's official service list for this proceeding. A comment period will be allotted for review if the EA is published. We will consider all comments on the EA before we recommend that the Commission approve or not approve the project.

Public Participation

You can make a difference by sending a letter addressing your specific comments or concerns about the project. You should focus on the potential environmental effects of the proposal, alternatives to the proposal, and measures to avoid or lessen environmental impact. The more specific your comments, the more useful they will be. Please follow the instructions below to ensure that your comments are received and properly recorded:

- Address your letter to: Lois Cashell, Secretary, Federal Energy Regulatory Commission, 888 First St., NE., Washington, DC 20426;
- Reference Docket No. CP97–156–000;
- Send a *copy* of your letter to: Mr. James Dashukewich, EA Project Manager, Federal Energy Regulatory Commission, 888 First St., NE., Room 71–44, Washington, DC 20426; and
- Mail your comments so that they are received in Washington, DC on or before February 14, 1997.

Becoming an Intervenor

In addition to involvement in the EA scoping process, you may want to become an official party to the proceeding or an ''intervenor''. Among other things, intervenors have the right to receive copies of case-related

[1] Hopkinton LNG Corporation's application was filed under Section 7 of the Natural Gas Act and Part 157 of the Commission's regulations.

[2] The appendices referenced in this notice are not being printed in the Federal Register. Copies are available from the Commission's Public Reference and Files Maintenance Branch, 888 First Street, NE, Washington, DC 20426, or call (202) 208–1371. Copies of the appendices were sent to all those receiving this notice in the mail.

Commission documents and filings by other intervenors. Likewise, each intervenor must provide copies of its filings to all other parties. If you want to become an intervenor, you must file a motion to intervene according to Rule 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.214) (see appendix 2).

Filing of timely motions to intervene in this proceeding should be made on or before February 14, 1997. Once this date has passed, parties seeking to file late interventions must show good cause, as required by section 385.214(b)(3), why this time limitation should be waived. Environmental issues have been viewed as good cause for late intervention. You do not need intervenor status to have your scoping comments considered.

If you are interested in obtaining detailed maps of this project, or procedural information, contact Mr. James Dashukewich, EA Project Manager, at (202) 208–0117.

Lois D. Cashell,

Secretary.

[FR Doc. 97–1829 Filed 1–24–97; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP97–93–000]

Viking Gas Transmission Company; Notice of Intent to Prepare an Environmental Assessment for the Proposed Viking 1997 Expansion Project and Request for Comments on Environmental Issues

January 21, 1997.

The staff of the Federal Energy Regulatory Commission (FERC or Commission) will prepare an environmental assessment (EA) that will discuss the environmental impacts of the construction and operation of the facilities, about 29.4 miles of 24-inch diameter loop, 23,500 horsepower (hp) of compression, and a meter station, proposed in the Viking 1997 Expansion Project.[1] This EA will be used by the Commission in its decisionmaking process to determine whether an environmental impact statement is necessary and whether to approve the project.

Summary of the Proposed Project

Viking Gas Transmission Company (Viking) wants to expand the capacity of its facilities in Minnesota to transport an additional 61,300 dekatherms per day of natural gas to various customers including a municipal utility, a local distribution company, marketers, and other end users. Viking seeks authority to construct and operate the following facilities in Minnesota:

- 9.1 miles of loop in Kittson County;
- 11.9 miles of loop in Polk County;
- 7.1 miles of loop in Norman and Clay Counties;
- The Perham Meter Station in Otter Tail County;
- Piping and valves at various existing facilities;
- Crossover assemblies at the end of each new loop;
- 4,700 horsepower (hp) of compression at each of the following existing compressor stations:

—Angus Compressor Station in Polk County;
—Ada Compressor Station in Norman County;
—Frazee Compressor Station in Otter Tail County;
—Staples Compressor Station in Todd County; and
—Milaca Compressor Station in Mille Lacs County

The location of the project facilities is shown in appendix 1.[2] If you are interested in obtaining detailed maps of a specific portion of the project, or procedural information, contact the Project Manager identified at the end of this notice.

Land Requirements for Construction

Construction of the loops would require about 355 acres of land, including about 302 acres of existing right-of-way. No new permanent right-of-way would be required for this proposal. All construction at the compression stations would take place within the existing fenced yard. The new Perham Meter Station would require about 0.3 acre of land. Following construction, all areas would be restored and allowed to revert to their former use, except for the Perham Meter Station.

The EA Process

The National Environmental Policy Act (NEPA) requires the Commission to take into account the environmental impacts that could result from an action whenever it considers the issuance of a Certificate of Public Convenience and Necessity. NEPA also requires us to discover and address concerns the public may have about proposals. We call this ''scoping''. The main goal of the scoping process is to focus the analysis in the EA on the important environmental issues. By this Notice of Intent, the Commission requests public comments on the scope of the issues it will address in the EA. All comments received are considered during the preparation of the EA. State and local government representatives are encouraged to notify their constituents of this proposed action and encourage them to comment on their areas of concern.

The EA will discuss impacts that could occur as a result of the construction and operation of the proposed project under these general headings:

- Geology and soils.
- Water resources, fisheries, and wetlands.
- Vegetation and wildlife.
- Endangered and threatened species.
- Public safety.
- Land use.
- Cultural resources.
- Air quality and noise.
- Hazardous waste.

We will also evaluate possible alternatives to the proposed project or portions of the project, and make recommendations on how to lessen or avoid impacts on the various resource areas.

Our independent analysis of the issues will be in the EA. Depending on the comments received during the scoping process, the EA may be published and mailed to Federal, state, and local agencies, public interest groups, interested individuals, official landowners, newspapers, libraries, and the Commission's official service list for this proceeding. A comment period will be allotted for review if the EA is published. We will consider all comments on the EA before we recommend that the Commission approve or not approve the project.

Currently Identified Environmental Issues

We have already identified several issues that we think deserve attention based on a preliminary review of the proposed facilities and the environmental information provided by Viking. This preliminary list of issues may be changed based on your comments and our analysis.

- A total of 345.3 acres of agricultural land, of which 341 acres contains prime farmland soils, would be disturbed by construction.
- The impact of noise on residences near the five compressor stations.

Public Participation

You can make a difference by sending a letter addressing your specific

[1] Viking Gas Transmission Company's application was filed with the Commission under Section 7 of the Natural Gas Act and Part 157 of the Commission's regulations.

[2] The appendices referenced in this notice are not being printed in the Federal Register. Copies are available from the Commission's Public Reference and Files Maintenance Branch, 888 First Street, N.E., Washington, D.C. 20426, or call (202) 208–1371. Copies of the appendices were sent to all those receiving this notice in the mail.

comments or concerns about the project. You should focus on the potential environmental effects of the proposal, alternatives to the proposal (including alternative locations/routes), and measures to avoid or lessen environmental impact. The more specific your comments, the more useful they will be. Please follow the instructions below to ensure that your comments are received and properly recorded:

- Address your letter to: Lois Cashell, Secretary, Federal Energy Regulatory Commission, 888 First St., N.E., Washington, DC 20426;
- Reference Docket No. CP97–93–000;
- Send a *copy* of your letter to: Ms. Laura Turner, Project Manager, Federal Energy Regulatory Commission, 888 First St., N.E., PR–11.1, Washington, DC 20426; and
- Mail your comments so that they will be received in Washington, DC on or before February 24, 1997.

If you wish to receive a copy of the EA, you should request one from Ms. Turner at the above address.

Becoming an Intervenor

In addition to involvement in the EA scoping process, you may want to become an official party to the proceeding or become an ''intervenor''. Among other things, intervenors have the right to receive copies of case-related Commission documents and filings by other intervenors. Likewise, each intervenor must provide copies of its filings to all other parties. If you want to become an intervenor you must file a motion to intervene according to Rule 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.214) (see appendix 2).

The date for filing timely motions to intervene in this proceeding has passed. Therefore, parties now seeking to file late interventions must show good cause, as required by section 385.214(b)(3), why this time limitation should be waived. Environmental issues have been viewed as good cause for late intervention.

Docket No. CP97–93–000

You do not need intervenor status to have your scoping comments considered.

Additional procedural information about the proposed project is available from Ms. Laura Turner, Project Manager, at (202) 208–0916.

Lois D. Cashell,

Secretary.

[FR Doc. 97–1828 Filed 1–24–97; 8:45 am]

BILLING CODE 6717–01–M

Sunshine Act Meeting

January 22, 1997.

The following notice of meeting is published pursuant to Section 3(A) of the Government in the Sunshine Act (Pub. L. No. 94–409), 5 U.S.C. 552B:

AGENCY HOLDING MEETING: FEDERAL ENERGY REGULATORY COMMISSION.

DATE AND TIME: January 29, 1997, 10:00 a.m.

PLACE: Room 2C, 888 First Street, N.E., Washington, D.C. 20426.

STATUS: Open.

MATTERS TO BE CONSIDERED: Agenda.

*Note—Items listed on the agenda may be deleted without further notice.

CONTACT PERSON FOR MORE INFORMATION: Lois D. Cashell, Secretary, Telephone (202) 208–0400; for a recording listing items stricken from or added to the meeting, call (202) 208–1627.

This is a list of matters to be considered by the commission. It does not include a listing of all papers relevant to the items on the agenda; however, all public documents may be examined in the reference and information center.

Consent Agenda—Hydro 666th Meeting—January 29, 1997 Regular Meeting (10:00 A.M.)

CAH–1.
Docket# P–2105 042 Pacific Gas and Electric Company
CAH–2.
Docket# P–2232 319 Duke Power Company
CAH–3.
Docket# P–4797 049 Cogeneration, Inc.
CAH–4.
Docket# P–10536 004 Public Utility District No. 1 of Okanogan County, Washington
CAH–5.
Docket# P–1388 001 Southern California Edison Company
CAH–6.
Docket# P–1389 001 Southern California Edison Company
CAH–7.
Docket# P–4715 006 Felts Mills Energy Partners, L.P.

Consent Agenda—Electric

CAE–1.
Docket# ER96–2401 000 Arizona Public Service Company

Other#S OA96–153 000 Arizona Public Service Company
CAE–2.
Docket# ER97–678 000 New England Power Company

Other#S ER97–680 000 New England Power Company
CAE–3.
Docket# ER97–703 000 Ensource
CAE–4.
Docket# ER97–30 000 Kincaid Generation, L.L.C.
CAE–5.
Docket# ER97–772 000 Pacificorp
CAE–6.
Docket# ER96–2362 000 Tucson Electric Power Company
CAE–7.
Docket# ER96–2367 000 Commonwealth Edison Company and Commonwealth Edison Company of Indiana, Inc.
CAE–8.
Omitted
CAE–9.
Docket# OA96–183 000 American Electric Power Service Corporation

Other#S OA96–19 000 Northeast Utilities Service Company
OA96–21 000 Public Service Company of Colorado and Cheyenne Light, Fuel and Power Company
OA96–38 000 Long Island Lighting Company
OA96–39 000 Florida Power & Light Company
OA96–70 000 Boston Edison Company
OA96–73 000 Florida Power Corporation
OA96–74 000 New England Power Company
OA96–76 000 Southern California Edison Company
OA96–77 000 Consumers Power Company
OA96–78 000 Detroit Edison Company
OA96–79 000 Wisconsin Public Service Corporation
OA96–114 000 Jersey Central Power & Light Company, Metropolitan Edison Company and Pennsylvania Electric Company
OA96–116 000 Tampa Electric Company
OA96–138 000 Consolidated Edison Company of New York
OA96–153 000 Arizona Public Service Company
OA96–158 000 Entergy Services, Inc.
OA96–165 000 Delmarva Power & Light Company
OA96–166 000 Commonwealth Edison Company
OA96–184 000 Citizens Utilities Company
OA96–194 000 Niagara Mohawk Power Corporation
OA96–195 000 New York State Electric & Gas Corporation
OA96–198 000 Carolina Power & Light Company
OA96–200 000 El Paso Electric Company
OA96–204 000 Cleveland Electric Illuminating company and Toledo Edison Company
CAE–10.
Docket# ER96–2677 002 Central Louisiana Electric Company, Inc.
CAE–11.
Docket# EL95–53 000 Arizona Public Service Commission v. Entergy Services, Inc.
CAE–12.
Docket# EL95–51 000 Midwest Power Systems, Inc.
CAE–13.
Docket# ER92–592 005 Yankee Atomic Electric Company

Consent Agenda—Gas and Oil

CAG–1.
Docket# RP95–408 014 Columbia Gas Transmission Company

Other#s RP95–408 017 Columbia Gas Transmission Company
RP97–219 000 Columbia Gas Transmission Company
CAG–2.
Docket# RP97–200 000 Tennessee Gas Pipeline Company
CAG–3.
Omitted
CAG–4.
Docket# RP97–213 000 CNG Transmission Corporation

Other#s RP94–96 020 CNG Transmission Corporation
CAG–5.
Docket# RP97–222 000 ANR Pipeline Company
CAG–6.
Omitted
CAG–7.
Docket# RP97–215 000 Williston Basin Interstate Pipeline Company
CAG–8.
Docket# RP97–220 000 Williams Natural Gas Company

Other#S RP89–183 069 Williams Natural Gas Company
RP97–220 001 Williams Natural Gas Company
CAG–9.
Docket# RP97–223 000 Midwestern Gas Transmission Company
CAG–10.
Omitted
CAG–11.
Docket# RP95–197 021 Transcontinental Gas Pipe Line Corporation

Other#S RP96–211 006 Transcontinental Gas Pipe Line Corporation
CAG–12.
Docket# RP96–317 000 Great Lakes Gas Transmission Limited Partnership
CAG–13.
Docket# RP96–338 000 Texas Eastern Transmission Corporation

Other#s RP96–338 001 Texas Eastern Transmission Corporation
CAG–14.
Docket# RP96–383 001 CNG Transmission Corporation
CAG–15.
Docket# RP97–13 001 East Tennessee Natural Gas Company
CAG–16.
Docket# RP97–91 000 Gasdel Pipeline System, Inc.

Other#S RP97–92 000 Gasdel Pipeline System, Inc.
RP97–163 000 WestGas Interstate, Inc.
RP97–164 000 Texas-Ohio Pipeline, Inc.
CAG–17.
Docket# RP96–346 000 Southern Natural Gas Company

Other#S RP96–346 001 Southern Natural Gas Company
CAG–18.
Docket# RP96–16 002 Natural Gas Pipeline Company of America

Other#S RP93–36 016 Natural Gas Pipeline Company of America
CAG–19.
Docket# RP96–341 001 Koch Gateway Pipeline Company

Other#S CP94–327 003 Koch Gateway Pipeline Company
CP94–327 004 Koch Gateway Pipeline Company
RP96–341 002 Koch Gateway Pipeline Company
CAG–20.
Omitted
CAG–21.
Docket# RP97–57 001 Noram Gas Transmission Company
CAG–22.
Docket# RP96–173 004 Williams Natural Gas Company

Other#S RP89–183 068 Williams Natural Gas Company
CAG–23.
Omitted
CAG–24.
Docket# RP96–200 012 Noram Gas Transmission Company

Other#S RP96–331 005 National Fuel Gas Supply Corporation
CAG–25.
Docket# RP97–71 002 Transcontinental Gas Pipe Line Corporation

Other#S RP95–197 022 Transcontinental Gas Pipe Line Corporation
CAG–26.
Docket# RP96–390 002 Columbia Gas Transmission Corporation

Other#S RP96–389 002 Columbia Gulf Transmission Company
CAG–27.
Docket# RP96–312 004 Tennessee Gas Pipeline Company
CAG–28.
Docket# RP96–320 005 Koch Gateway Pipeline Company
CAG–29.
Omitted
CAG–30.
Docket# RP95–197 020 Transcontinental Gas Pipe Line Corporation

Other#S CP95–737 003 Texas Eastern Transmission Corporation, et al.
RP96–44 004 Transcontinental Gas Pipe Line Corporation
CAG–31.
Docket# RP95–112 018 Tennessee Gas Pipeline Company
CAG–32.
Docket# RP92–137 037 Transcontinental Gas Pipe Line Corporation
CAG–33.
Docket# IS94–10 008 Amerada Hess Pipeline Corporation

Other#S IS94–11 008 ARCO Transportation Alaska, Inc.
IS94–12 008 BP Pipelines (Alaska) Inc.
IS94–13 007 Mobil Alaska Pipeline Company
IS94–14 008 Exxon Pipeline Company
IS94–15 008 Mobil Alaska Pipeline Company
IS94–16 008 Phillips Alaska Pipeline Corporation
IS94–17 008 Unocal Pipeline Company
IS94–31 008 Unocal Pipeline Company
IS94–34 007 Arco Transporation Alaska, Inc.
IS94–38 008 Phillips Alaska Pipeline Corporation
OR94–2 003 Trans Alaska Pipeline System
CAG–34.
Docket# MG96–16 001 Mojave Pipeline Company
CAG–35.
Docket# MG97–6 000 Iroquois Gas Transmission System, L.P.
CAG–36.
Docket# RM96–1 003 Standards for Business Practices of Interstate Natural Gas Pipelines
CAG–37.
Docket# CP95–581 001 Midwestern Gas Transmission Company and Trunkline Gas Company
CAG–38.
Docket# CP96–104 001 Texas Gas Transmission Corporation

Other#S CP96–630 001 Mississippi Valley Gas Company V. Texas Gas Transmission Corporation
CAG–39.
Omitted
CAG–40.
Omitted
CAG–41.
Docket# CP96–678 000 Garden Banks Gas Pipeline, LLC

Other#S CP96–679 000 Garden Banks Gas Pipeline, LLC
CAG–42.
Docket# CP96–684 000 Interenergy Sheffield Processing Company
CAG–43.
Omitted
CAG–44.
Docket# CP96–737 000 Texas-Ohio Pipeline, Inc.

Other#S CP96–737 001 Texas-Ohio Pipeline, Inc.
CAG–45.

Omitted
CAG–46.
Docket# RM97–1 000 Applications for Authorization to Construct, Operate, or Modify Facilities, et al.
CAG–47.
Docket# RP97–165 000 Alabama-Tennessee Natural Gas Company

Hydro Agenda

H–1. Reserved

Electric Agenda

E–1.
Reserved

Oil and Gas Agenda

I. Pipeline Rate Matters
PR–1.
Reserved
II. Pipeline Certificate Matters
PC–1.
Reserved

Lois D. Cashell,

Secretary.

[FR Doc. 97–2016 Filed 1–23–97; 4:00 pm]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5680–7]

Agency Information Collection Activities: Submission for OMB Review; Comment Request; Conflict of Interest

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that the following Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval: Conflict of Interest; OMB Control No. 2030–0023; expiration date 3/31/96. The ICR describes the nature of the information collection and its expected burden and cost; where appropriate, it includes the actual data collection instrument.

DATES: Comments must be submitted on or before February 26, 1997.

FOR FURTHER INFORMATION OR A COPY CALL: Sandy Farmer at EPA, (202) 260–2740, and refer to EPA ICR No. 1550.04.

SUPPLEMENTARY INFORMATION:

Title: Conflict of Interest (OMB Control No. 2030–0023; EPA ICR No.1550.04) expiring 3/31/97. This is a request for extension of a currently approved collection.

Abstract: Contractors must disclose to EPA contracting offices all actual or potential conflicts of interest, and certify to this on either a work assignment or an annual basis. The information will be used by the Agency to mitigate or neutralize all conflicts.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR Part 9 and 48 CFR Chapter 15. The Federal Register Notice required under 5 CFR 1320.8(d), soliciting comments on this collection of information was published on 11/7/96 (61 FR 57672). No comments were received.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 20 hours and 20 minutes hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; to develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; to adjust the existing ways to comply with any previously applicable instructions and requirements; to train personnel to be able to respond to a collection of information; to search data sources; to complete and review the collection of information; and to transmit or otherwise disclose the information.

Respondents/Affected Entities: EPA contractors.

Estimated Number of Respondents: 150.

Frequency of Response: 68 per contract.

Estimated Total Annual Hour Burden: 207,450 hours.

Estimated Total Annualized Cost Burden: $9,919,650.

Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques to the following addresses. Please refer to EPA ICR No. 1550.04 and OMB Control No. 2030–0023 in any correspondence.

Ms. Sandy Farmer, U.S. Environmental Protection Agency, OPPE Regulatory Information Division (2137), 401 M Street, SW., Washington, DC 20460
and
Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for EPA, 725 17th Street, NW., Washington, DC 20503.

Dated: January 21, 1997.

Joseph Retzer,

Director, Regulatory Information Division.

[FR Doc. 97–1879 Filed 1–24–97; 8:45 am]

BILLING CODE 6560–50–P

[FRL–5680–6]

Agency Information Collection Activities Under OMB Review; Standards of Performance for New Stationary Sources; Wool Fiberglass Insulation Manufacturing Plants (Subpart PPP), OMB#2060–0114, EPA #1160.05

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3507(a)(1)(D), this notice announces that the Information Collection Request (ICR) for Standards of Performance for New Stationary Sources—Wool Fiberglass Insulation Manufacturing Plants—NSPS Subpart PPP (OMB #2060–0114) described below has been forwarded to the Office of Management and Budget (OMB) for review and approval. The ICR describes the nature of the information collection and its expected burden and cost; where appropriate, it includes the actual data collection instrument.

DATES: Comments must be submitted on or before February 26, 1997.

FOR FURTHER INFORMATION OR A COPY CALL: Sandy Farmer at EPA, (202) 260–2740, and refer to EPA ICR No.1160.05.

SUPPLEMENTARY INFORMATION:

Title: Standards of Performance for Wool Fiberglass Insulation Manufacturing Plants (OMB Control No.2060–0114; EPA ICR No 1160.05, expiring 4/30/97). This is a request for extension of a currently approved collection.

Abstract: The Administrator has judged that PM emissions from wool fiberglass insulation manufacturing plants cause or contribute to air pollution that may reasonably be anticipated to endanger public health or welfare. Owners/operators of wool fiberglass insulation manufacturing plants must notify EPA of construction, modification, startups, shut downs, date and results of initial performance test and provide semiannual reports of excess emissions.

In order to ensure compliance with the standards promulgated to protect public health, adequate reporting and recordkeeping is necessary. In the absence of such information enforcement personnel would be unable to determine whether the standards are being met on a continuous basis, as required by the Clean Air Act.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB

control number. The OMB control numbers for EPA's regulations are listed in 40 CFR Part 9 and 48 CFR Chapter 15. The Federal Register Notice required under 5 CFR 1320.8(d), soliciting comments on this collection of information was published on August 30, 1996, in Federal Register Vol 61, Number 170. No comments were received.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 1410 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: 20.

Estimated Number of Respondents: 20.

Frequency of Response: 2.

Estimated Number of Responses: 40.

Estimated Total Annual Hour Burden: 1410 hours.

Estimated Total Annualized Cost Burden: $49,350.

Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques to the following addresses. Please refer to EPA ICR No. 1160.05 and OMB Control No. 2060–0114 in any correspondence.

Ms. Sandy Farmer, U.S. Environmental Protection Agency, OPPE Regulatory Information Division (2137), 401 M Street, SW., Washington, DC 20460

and

Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for EPA, 725 17th Street, NW., Washington, DC 20503

Dated: January 21, 1997.

Joseph Retzer, Director,

Regulatory Information Division.

[FR Doc. 97–1880 Filed 1–24–97; 8:45 am]

BILLING CODE 6560–50–P

[OPPTS–42191; FRL–5585–2]

Endocrine Disruptors; Notice of Public Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of public meeting.

SUMMARY: EPA is announcing the second meeting of the Endocrine Disruptors Screening and Testing Advisory Committee (EDSTAC), a committee established under the provisions of the Federal Advisory Committee Act (FACA) to advise EPA on a strategy for screening chemicals and pesticides for their potential to disrupt endocrine function in humans and wildlife.

DATES: The meeting will begin on February 5 at 9 a.m. and adjourn February 6 at 4 p.m.

ADDRESSES: The meeting will be held at the Wyndham Warick Hotel, 5701 Main Street in Houston, Texas. The telephone number at the hotel is 713–526–1991; fax: 713–639–4545.

FOR FURTHER INFORMATION CONTACT: For technical information, contact Dr. Anthony Maciorowski (telephone: 202–260–3048; e-mail: maciorowski.tony@epamail.epa.gov) or Mr. Gary Timm (telephone: 202–260–1859; e-mail: timm.gary@epamail.epa.gov) at EPA. To obtain additional information please contact the contractor assisting EPA with meeting facilitation and logistics: Ms. Tutti Otteson, The Keystone Center, P.O. Box 8606, Keystone, CO 80435; telephone: 970–468–5822; fax: 970–262–0152; e-mail: totteson@keystone.org.

SUPPLEMENTARY INFORMATION: EPA's Office of Prevention, Pesticides and Toxic Substances is taking the lead for the Agency on endocrine disruption screening and testing required by recent legislation (i.e., reauthorization of the Safe Drinking Water Act and passage of the Food Quality Protection Act) and has formed an advisory committee (EDSTAC) to provide advice and counsel to the Agency on a strategy to screen and test endocrine disrupting chemicals and pesticides in humans, fish, and wildlife. The first EDSTAC meeting was held on December 12-13, 1996 (61 FR 60280, November 27, 1996) (FRL–5575–7).

It is proposed that the agenda for this meeting include the following topics:

February 5

1. Comparative endocrinology—an overview of the basic science noting the differences between mammals, fish and birds.

2. State of the science regarding endocrine disruption.

3. Structure activity relationships.

4. Existing screening and testing programs and protocols.

5. Public comment session.

February 6

1. Discussion and approval of principles to guide the screening and testing program.

2. Discussion and approval of membership of the screening and testing, and priority setting workgroups.

Dated: January 17, 1997.

Lynn R. Goldman,

Assistant Administrator for Prevention, Pesticides and Toxic Substances.

[FR Doc. 97–1875 Filed 1–24–97; 8:45 am]

BILLING CODE 6560–50–F

FEDERAL COMMUNICATIONS COMMISSION

Public Information Collection Requirements Submitted to Office of Management and Budget (OMB) for Review

January 17, 1997.

The Federal Communications Commission has submitted the following information collections to OMB for review. For further information contact Dorothy Conway, Federal Communications Commission, (202) 418–0217.

In Revision of ARMIS Quarterly Report (FCC Report 43–01), ARMIS USOA Report (FCC Report 43–02), ARMIS Joint Cost Report (FCC Report 43–03), ARMIS Access Report (FCC Report 43–04), ARMIS Quarterly Service Quality Report (FCC Report 43–05), ARMIS Semi-Annual Service Quality Report (FCC Report 43–06), ARMIS Infrastructure Report (FCC Report 43–07), and ARMIS Operating Data Report (FCC Report 43–08) for Tier 1 Telephone Companies (released December 17, 1996), CC Docket No. 96–193, the Common Carrier Bureau implements the Commission's Order in Order and Notice of Proposed Rulemaking, Reform of Filing Requirements and Carrier Classification (Reporting Requirements (Order) released September 12, 1996. Rules requiring the filing of automated Reporting Management Information System (ARMIS) reports more frequently than annually were superseded by Section 402(b)(2)(B) of the Telecommunications Act of 1996. The Commission, therefore, amended its rules with the issuance of the Reporting

Requirements Order. Carriers are now required to file all ARMIS reports on an annual basis. This Order revises the form and content of these reports to facilitate annual filings. In this Order, we adopt revisions to all ARMIS reports which require carriers with annual operating revenues for the preceding year equal to or above the indexed revenue threshold to file ARMIS reports for 1996, due on or before April 1, 1997. We also clarify definitions and row descriptions on several ARMIS reports. These clarifications are implemented to provide consistency between reports and improved understanding of existing requirements. In addition, this Order compiles previously adopted ARMIS report requirements for the convenience of report filers. While many of these requirements were adopted pursuant to previous Commission orders, others were developed through correspondence with the industry in an effort to clarify existing procedures. The full text of the Commission Order and detailed instructions for the completion of the reports, which incorporate the changes made in the Order, are available for public inspection in the Commission's Public Reference Room at 2000 L Street, N.W., Suite 812, Washington, D.C. 20554 and from the International Transcription Service, Inc. (ITS) at 2100 M Street, N.W., Suite 140, Washington, D.C. 20037.

The Order contains new and/or modified information collections. The Order has been submitted to the Office of Management and Budget (OMB) for review under the Paperwork Reduction Act of 1995 (PRA). The Commission has updated its November 1996 paperwork submissions made for the collections identified below (which are currently under OMB review) to OMB to reflect the new and/or modified collections in the Order. OMB is asked to approve the changes adopted in the Order in addition to any requirements in the original submissions.

The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public and the Office of Management and Budget (OMB) to comment on the following information collections contained in the Order as required by the Paperwork Reduction Act of 1995, Public Law No. 104–13. Written comments by the public on the proposed and/or modified information collections are due 30 days after date of publication in the Federal Register. OMB notification of action is due on February 24, 1997. Comments should address: (a) Whether the proposed or modified information collection is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

Federal Communications Commission

OMB Control Number: 3060–0395.

Title: Automated Reporting and Management Information Systems (ARMIS)—Sections 43.21 and 43.22.

Form No.: FCC Reports 43–02, 43–05, 43–07.

Type of Review: Revised collection.

Number of Respondents: Businesses or other for profit.

Estimated Time Per Response: 943.27.

Total Annual Burden: 151,868.

Estimated Costs Per Respondent: $0.

Needs and Uses: ARMIS is needed to administer our accounting, jurisdictional separations, access charges and joint cost rules and rules to analyze revenue requirements and rates of return, service quality and infrastructure development. It collects financial and operating data from all Tier 1, Class A local exchange carriers with annual revenues over $100 million and carriers who elect incentive regulation. The information contained in the reports provides the necessary detail to enable this Commission to fulfill its regulatory responsibilities.

Summary of Changes

a. FCC Report 43–02

The USOA Report provides the annual operating results of the carriers' activities for every account in the USOA. In the Order the Commission amended row descriptions and definitions to add clarity and provide consistency among reports. In Table I–1, Income Statement Accounts, Row 5280, Nonregulated, is no longer included in Row 5200, Miscellaneous, to be consistent with Part 32. Row descriptions and definitions of Row 510, Basic Local Service Revenue, and Row 520, Local Network Service Revenue were also revised. Description of Row 730 was also clarified as well as the definition of Row 860, Total Compensation for the Year. Various row descriptions in Table I–6, Special Charges, and Table I–7, Donations or Payments for Services Rendered by Persons other Than Employees were clarified to specify dollar amounts above which items must be reported.

b. FCC Report 43–05

The Service Quality Report provides service quality information in the areas of interexchange access service installation and repair intervals, local service installation and repair intervals, trunk blockage and total switch downtime for price cap companies. All tables have been revised to facilitate reporting on an annual basis. The report has also been revised to clarify the filing instructions.

c. FCC Report 43–07

The Infrastructure Report provides switch deployment and capabilities data. Various rows of Table 1, Switching Equipment were revised to correct minor typographical errors. For clarification purposes, Table IV, Additions and Book Costs, Row 0540 has been renamed, ''Total TPIS Gross Additions (000).''

OMB Control Number: 3060–0511.

Title: ARMIS Access Report.

Form No.: FCC Report 43–04.

Type of Review: Revised collection.

Respondents: Businesses or other for-profit.

Number of Respondents: 150 respondents.

Estimated Time Per Response: 1,150 hours.

Total Annual Burden: 172,500 hours.

Estimated Costs Per Respondent: $0.

Needs and Uses: The Access Report is needed to administer our accounting, jurisdictional separations and access charge rules, and to analyze revenue requirements and rates of return and to collect financial and operating data from all Tier 1 local exchange carriers.

Summary of Changes

Row titles have been expanded to provide more meaningful descriptions in FCC Report 43–04. Various row definitions have been clarified to provide consistency among reports. The General Instructions are expanded to include symbols to be used to differentiate whole dollars, dollars reported in thousands, percentages and other units (e.g., minutes, miles, conversational minutes, working loops, etc.). Other revisions were made pursuant to previous Orders and letters from the Chief of the Accounting and Audits Division. Rounding conventions are included to reflect prior clarifications made in a letter from the Common Carrier Bureau to a representative of USTA on July 10, 1992. The N/As were removed from Column (r) for Rows 3070 and 3071. The descriptions of Row 2250, FCC Investment Adjustment, and Row 7350, FCC Expense Adjustment, are clarified

to state that these rows will not include any TPUC or AFUDC, respectively, as a Part 65 adjustment.

OMB Control Number: 3060–0513.

Title: ARMIS Joint Cost Report.

Form No.: FCC Report 43–03.

Type of Review: Revised collection.

Respondents: Businesses or other for Profit.

Number of Respondents: 150 respondents.

Estimated Time Per Response: 200 hours per response.

Total Annual Burden: 30,000 Hours.

Estimated Costs Per Respondent: $0.

Needs and Uses: The Joint Cost Report is needed to administer our joint cost rules (Part 64) and to analyze data in order to prevent cross-subsidization of nonregulated operations by the regulated operations of Tier 1 carriers.

Summary of Changes

Various rows descriptions and definitions were clarified to provide consistency among reports. Row 5280, Nonregulated, is no longer included in Row 5200, Miscellaneous, to be consistent with Part 32. Row descriptions and definitions of Row 510, Basic Local Service Revenue, and Row 520, Local Network Service Revenue were clarified to be consistent with the same change made in Report 43–02. A new row entitled ''Total Operating Expenses'' has been added. The definitions of Rows 7200, 7300, 7600 and 750 were revised to clarify the instructions for their calculation. Rows 8042, Rate of Return, and Row 8045, Rate of Return Including FCC Refund are revised pursuant to the LEC Price Cap Order. Row 8021, Approximate Net Taxable Income has been revised to clarify its calculation. Row 9010, Total Billable Access Lines, has been revised to be consistent with FCC Report 43–01, Table II, Row 2140.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 97–1860 Filed 1–24–97; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Sunshine Act Meeting

Pursuant to the provisions of the ''Government in the Sunshine Act'' (5 U.S.C. 552b), notice is hereby given that at 11:11 a.m. on Tuesday, January 21, 1997, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session to consider matters relating to the Corporation's Corporate, supervisory and personnel activities.

In calling the meeting, the Board determined, on motion of Vice Chairman Andrew C. Hove, Jr., seconded by Director Joseph H. Neely (Appointive), concurred in by Director Nicolas P. Retsinas (Director, Office of Thrift Supervision), Director Eugene A. Ludwig (Comptroller of the Currency), and Chairman Ricki Helfer, that corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting by authority of subsections (c)(2), (c)(4), (c)(6), (c)(8) and (c)(9)(A)(ii) of the ''Government in the Sunshine Act'' (5 U.S.C. 552b(c)(2), (c)(4), (c)(6), (c)(8) and (c)(9)(A)(ii)).

The meeting was held in the Board Room of the FDIC Building located at 550 17th Street NW., Washington, DC.

Federal Deposit Insurance Corporation.

Dated: January 21, 1997.

Valerie J. Best,

Assistant Executive Secretary.

[FR Doc. 97–2006 Filed 1–23–97; 11:34 am]

BILLING CODE 6714–01–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1155–DR]

California; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of California (FEMA–1155–DR), dated January 4, 1997, and related determinations.

EFFECTIVE DATE: January 4, 1997.

FOR FURTHER INFORMATION CONTACT: Magda Ruiz, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3260.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated January 4, 1997, the President declared a major disaster under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 *et seq.*), as follows:

I have determined that the damage in certain areas of the State of California, resulting from severe storms, flooding, mud and land slides beginning on December 28, 1996, and continuing is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (''the Stafford Act''). I, therefore, declare that such a major disaster exists in the State of California.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Individual Assistance and assistance for debris removal and emergency protective measures as authorized under Title IV of the Stafford Act in the designated areas. Should snow removal assistance be necessary, you are authorized to provide reimbursement for the costs of equipment, contracts, and personnel overtime that are required to clear one lane in each direction along snow emergency routes (or select primary roads in those communities without such designated roadways) to hospitals, nursing homes, and other critical facilities. Other types of Public Assistance and the Hazard Mitigation program may be added at a later date, as you deem necessary. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Public Assistance or Hazard Mitigation will be limited to 75 percent of the total eligible costs.

The time period prescribed for the implementation of section 310(a), Priority to Certain Applications for Public Facility and Public Housing Assistance, 42 U.S.C. 5153, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, I hereby appoint John Swanson of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the following areas of the State of California to have been affected adversely by this declared major disaster:

Alpine, Amador, Butte, Calaveras, Colusa, Del Norte, El Dorado, Glenn, Humboldt, Lake, Lassen, Madera, Mendocino, Modoc, Mono, Monterey, Napa, Nevada, Placer, Plumas, Sacramento, San Benito, San Joaquin, San Mateo, Santa Cruz, Shasta, Sierra, Siskiyou, Solano, Sonoma, Stanislaus, Sutter, Tehama, Trinity, Tuolumne, Yolo, and Yuba Counties for Individual Assistance and debris removal and emergency protective measures under the Public Assistance program.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

James L. Witt,

Director.

[FR Doc. 97–1887 Filed 1–24–97; 8:45 am]

BILLING CODE 6718–02–P

[FEMA–1154–DR]

Idaho; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Idaho (FEMA–1154–DR), dated January 4, 1997, and related determinations.

EFFECTIVE DATE: January 4, 1997.

FOR FURTHER INFORMATION CONTACT: Magda Ruiz, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3260.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated January 4, 1997, the President declared a major disaster under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 *et seq.*), as follows:

I have determined that the damage in certain areas of the State of Idaho, resulting from severe storms, flooding, mud and land slides beginning on December 27, 1996, and continuing, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (''the Stafford Act''). I, therefore, declare that such a major disaster exists in the State of Idaho.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Individual Assistance and assistance for debris removal and emergency protective measures as authorized under Title IV of the Stafford Act in the designated areas. Should snow removal assistance be necessary, you are authorized to provide reimbursement for the costs of equipment, contracts, and personnel overtime that are required to clear one lane in each direction along snow emergency routes (or select primary roads in those communities without such designated roadways) to hospitals, nursing homes, and other critical facilities. Other types of Public Assistance and the Hazard Mitigation program may be added at a later date, as you deem necessary. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Public Assistance or Hazard Mitigation will be limited to 75 percent of the total eligible costs.

The time period prescribed for the implementation of section 310(a), Priority to Certain Applications for Public Facility and Public Housing Assistance, 42 U.S.C. 5153, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, I hereby appoint Robert C. Freitag of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the following areas of the State of Idaho to have been affected adversely by this declared major disaster:

Adams, Boundary, Bonner, Boise, Clearwater, Elmore, Gem, Idaho, Latah, Payette, Shoshone, Valley, and Washington Counties for Individual Assistance and debris removal and emergency protective measures under the Public Assistance Program.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

James L. Witt,

Director.

[FR Doc. 97–1888 Filed 1–24–97; 8:45 am]

BILLING CODE 6718–02–P

[FEMA–1151–DR]

Minnesota; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Minnesota (FEMA–1151–DR), dated January 7, 1997, and related determinations.

EFFECTIVE DATE: January 7, 1997.

FOR FURTHER INFORMATION CONTACT: Magda Ruiz, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3260.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated January 7, 1997, the President declared a major disaster under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 *et seq.*), as follows:

I have determined that the damage in certain areas of the State of Minnesota, resulting from severe ice storms on November 14–30, 1996, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (''the Stafford Act''). I, therefore, declare that such a major disaster exists in the State of Minnesota.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Public Assistance and Hazard Mitigation in the designated areas. Individual Assistance may be provided at a later date, if requested and warranted. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Public Assistance or Hazard Mitigation will be limited to 75 percent of the total eligible costs.

The time period prescribed for the implementation of section 310(a), Priority to Certain Applications for Public Facility and Public Housing Assistance, 42 U.S.C. 5153, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, I hereby appoint Gary Pierson of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the following areas of the State of Minnesota to have been affected adversely by this declared major disaster:

Cottonwood, Faribault, Freeborn, Jackson, Lincoln, Lyon, Murray, Nobles, Pipestone, Rock, Waseca, and Yellow Medicine Counties for Public Assistance and Hazard Mitigation.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

James L. Witt,

Director.

[FR Doc. 97–1891 Filed 1–24–97; 8:45 am]

BILLING CODE 6718–02–P

[FEMA–1153–DR]

Nevada; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Nevada (FEMA–1153–DR), dated January 3, 1997, and related determinations.

EFFECTIVE DATE: January 3, 1997.

FOR FURTHER INFORMATION CONTACT: Magda Ruiz, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3260.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated January 3, 1997, the President declared a major disaster under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), as follows:

I have determined that the damage in certain areas of the State of Nevada, resulting

from severe storms, flooding, mud and land slides beginning on December 20, 1996, and continuing, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (''the Stafford Act''). I, therefore, declare that such a major disaster exists in the State of Nevada.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide individual assistance and assistance for debris removal and emergency protective measures as authorized under Title IV of the Stafford Act in the designated areas. Should snow removal assistance be necessary, you are authorized to provide reimbursement for the costs of equipment, contracts, and personnel overtime that are required to clear one lane in each direction along snow emergency routes (or select primary roads in those communities without such designated roadways) to hospitals, nursing homes, and other critical facilities. Other types of Public Assistance and the Hazard Mitigation program may be added at a later date, if warranted. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Public Assistance or Hazard Mitigation will be limited to 75 percent of the total eligible costs.

The time period prescribed for the implementation of section 310(a), Priority to Certain Applications for Public Facility and Public Housing Assistance, 42 U.S.C. 5153, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, I hereby appoint Warren Pugh of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the following areas of the State of Nevada to have been affected adversely by this declared major disaster:

Douglas, Lyon, Storey and Washoe Counties and the Independent City of Carson City for Individual Assistance and debris removal and emergency protective measures under the Public Assistance program.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

James L. Witt,

Director.

[FR Doc. 97–1889 Filed 1–24–97; 8:45 am]

BILLING CODE 6718–02–P

[FEMA–1157–DR]

North Dakota; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of North Dakota (FEMA–1157–DR), dated January 12, 1997, and related determinations.

EFFECTIVE DATE: January 12, 1997.

FOR FURTHER INFORMATION CONTACT: Magda Ruiz, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3260.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated January 12, 1997, the President declared a major disaster under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), as follows:

I have determined that the damage in certain areas of the State of North Dakota, resulting from a major winter storm and blizzard beginning on January 3, 1997, and continuing, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (''the Stafford Act''). I, therefore, declare that such a major disaster exists in the State of North Dakota.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide reimbursement for the costs of equipment, contracts, and personnel overtime that are required to clear one lane in each direction along snow emergency routes (or select primary roads in those communities without such designated roadways), and routes necessary to allow the passage of emergency vehicles to hospitals, nursing homes, and other critical facilities. Additional assistance may be added, if warranted. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Public Assistance will be limited to 75 percent of the total eligible costs.

The time period prescribed for the implementation of section 310(a), Priority to Certain Applications for Public Facility and Public Housing Assistance, 42 U.S.C. 5153, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, I hereby appoint Roger Free of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the State of North Dakota to have been affected adversely by this declared major disaster:

FEMA will provide reimbursement for the costs of equipment, contracts, and personnel overtime that are required to clear one lane in each direction along snow emergency routes (or select primary roads in those communities without such designated roadways), and routes necessary to allow the passage of emergency vehicles to hospitals, nursing homes, and other critical facilities to the State of North Dakota.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

James L. Witt,

Director.

[FR Doc. 97–1886 Filed 1–24–97; 8:45 am]

BILLING CODE 6718–02–P

[FEMA–1156–DR]

South Dakota; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of South Dakota (FEMA–1156–DR), dated January 10, 1997, and related determinations.

EFFECTIVE DATE: January 10, 1997.

FOR FURTHER INFORMATION CONTACT: Magda Ruiz, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3260.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated January 10, 1997, the President declared a major disaster under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 *et seq.*), as follows:

I have determined that the damage in certain areas of the State of South Dakota, resulting from severe winter storm and blizzard conditions beginning on January 3, 1997, and continuing, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (''the Stafford Act''). I, therefore, declare that such a major disaster exists in the State of South Dakota.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide reimbursement for the costs of equipment, contracts, and personnel overtime that are required to clear one lane in each direction along snow emergency routes (or select primary roads in those communities without such designated roadways), and routes necessary to allow the passage of emergency vehicles to hospitals, nursing homes, and other critical facilities. Additional assistance may be added, if warranted. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Public Assistance will be limited to 75 percent of the total eligible costs.

The time period prescribed for the implementation of section 310(a), Priority to Certain Applications for Public Facility and Public Housing Assistance, 42 U.S.C. 5153, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, I hereby appoint Roger Free of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the State of South Dakota to have been affected adversely by this declared major disaster:

FEMA will provide reimbursement for the costs of equipment, contracts, and personnel overtime that are required to clear one lane in each direction along snow emergency routes (or select primary roads in those communities without such designated roadways), and routes necessary to allow the passage of emergency vehicles to hospitals, nursing homes, and other critical facilities to the State of South Dakota.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance.)

James L. Witt,

Director.

[FR Doc. 97–1885 Filed 1–24–97; 8:45 am]

BILLING CODE 6718–02–P

[FEMA–1152–DR]

Washington; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Washington (FEMA–1152–DR), dated January 7, 1997 and related determinations.

EFFECTIVE DATE: January 7, 1997.

FOR FURTHER INFORMATION CONTACT: Magda Ruiz, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3260.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated January 7, 1997, the President declared a major disaster under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), as follows:

I have determined that the damage in certain areas of the State of Washington, resulting from severe ice storms beginning on November 19, 1996, and continuing through December 4, 1996, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (''the Stafford Act''). I, therefore, declare that such a major disaster exists in the State of Washington.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Public Assistance, Categories A through F, and Hazard Mitigation in the designated areas. Other categories of assistance may be added at a later date, if warranted. Individual Assistance may be provided at a later date, if requested and warranted. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Public Assistance or Hazard Mitigation will be limited to 75 percent of the total eligible costs.

The time period prescribed for the implementation of section 310(a), Priority to Certain Applications for Public Facility and Public Housing Assistance, 42 U.S.C. 5153, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, I hereby appoint Mark R. Ekman of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the following areas of the State of Washington to have been affected adversely by this declared major disaster:

Klickitat, Pend Oreille, and Spokane Counties for Public Assistance (Categories A–F), and Hazard Mitigation.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

James L. Witt,

Director.

[FR Doc. 97–1890 Filed 1–24–97; 8:45 am]

BILLING CODE 6718–02P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act, including whether the acquisition of the nonbanking company can ''reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices'' (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than February 14, 1997.

A. Federal Reserve Bank of Boston (Robert M. Brady, Vice President) 600 Atlantic Avenue, Boston, Massachusetts 02106-2204:

1. Bank of Boston Corporation, and BayBanks, Inc., both of Boston, Massachusetts; to acquire 100 percent of the voting shares of BankBoston (NH), National Association, Nahsua, New Hampshire.

B. Federal Reserve Bank of Chicago (James A. Bluemle, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690-1413:

1. Brickyard Bancorp, Inc., Northbrook, Illinois (in formation); to become a bank holding company by acquiring 100 percent of the voting shares of Sysco Financial, Inc., Lincolnwood, Illinois, and thereby indirectly acquire Brickyard Bank, Lincolnwood, Illinois.

2. FirstBank of Illinois Co., Springfield, Illinois; to acquire 100 percent of the voting shares of BankCentral Corporation, Mattoon, Illinois, and thereby indirectly acquire Central National Bank of Mattoon, Mattoon, Illinois.

Board of Governors of the Federal Reserve System, January 21, 1997.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 97–1815 Filed 1–24–97; 8:45 am]

BILLING CODE 6210–01–F

Change in Bank Control Notices; Formations of, Acquisitions by, and Mergers of Bank Holding Companies; Correction

This notice corrects a notice (FR Doc. 97-368) published on page 1118 of the issue for Wednesday, January 8, 1997.

Under the Federal Reserve Bank of New York heading, the entry for Toronto-Dominion Bank, Toronto, Canada, and Waterhouse Investor Services, Inc., New York, New York, is revised to read as follows:

A. Federal Reserve Bank of New York (Christopher J. McCurdy, Senior Vice President) 33 Liberty Street, New York, New York 10045-0001:

1. The Toronto-Dominion Bank, Toronto, Canada, and its wholly-owned subsidiary, Waterhouse Investor Services, Inc., New York, New York; to acquire 50 percent of the voting shares of Marketware International, Inc., Holmdel, New Jersey (''Company''), and thereby develop and sell computer software products to facilitate the purchase and sale of securities by customers using personal computers, as well as other financial software products, pursuant to § 225.25(b)(7) of the Board's Regulation Y. *Company* would, *inter alia*, provide software to permit customers to place ''buy'' or ''sell'' orders with Waterhouse Securities, Inc., an affiliated broker-dealer, over the non-proprietary computer network known as the Internet. *Company* also would provide incidental software maintenance and product support services. *Company* proposes to conduct the proposed activities nationwide and in Canada.

Comments on this application must be received by February 7, 1997.

Board of Governors of the Federal Reserve System, January 21, 1997.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 97–1816 Filed 1–24–97; 8:45 am]

BILLING CODE 6210–01–F

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Board of Governors of the Federal Reserve System, Federal Register Citation of Previous Announcement: 62 FR 3513, January 23, 1997.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 11:00 a.m., Monday, January 27, 1997.

CHANGES IN THE MEETING: Addition of the following closed item(s) to the meeting: Guidance on international cooperation.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204.

Dated: January 23, 1997.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 97–2097 Filed 1–23–97; 3:28 pm]

BILLING CODE 6210–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary; Notice of Interest Rate on Overdue Debts

Section 30.13 of the Department of Health and Human Services' claims collection regulations (45 CFR Part 30) provides that the Secretary shall charge an annual rate of interest as fixed by the Secretary of the Treasury after taking into consideration private consumer rates of interest prevailing on the date that HHS becomes entitled to recovery. The rate generally cannot be lower than the Department of Treasury's current value of funds rate or the applicable rate determined from the ''Schedule of Certified Interest Rates with Range of Maturities.'' This rate may be revised quarterly by the Secretary of the Treasury and shall be published quarterly by the Department of Health and Human Services in the Federal Register.

The Secretary of the Treasury has certified a rate of 13 5/8% for the quarter ended December 31, 1996. This interest rate will remain in effect until such time as the Secretary of the Treasury notifies HHS of any change.

Dated: January 16, 1997.

George Strader,

Deputy Assistant Secretary, Finance.

[FR Doc. 97–1850 Filed 1–24–97; 8:45 am]

BILLING CODE 4150–04–M

National Institutes of Health

Statement of Organization, Functions, and Delegations of Authority

Part N, National Institutes of Health, of the Statement of Organization, Functions and Delegations of Authority for the Department of Health and Human Services (40 FR 22859, May 27, 1975, as amended most recently at 61 FR 54451, October 18, 1996, and redesignated from Part HN as Part N at 60 FR 56605, November 9, 1995) is amended, as set forth below to rename the National Center for Human Genome Research (N4, formerly HN4) to the National Human Genome Research Institute (NHGRI) and to amend its functional statement. Designating the Center as an Institute will enhance the organization's image as an Institute will enhance the organization's image as an NIH focal point for studying and understanding human genetic disease and allow the NHGRI to operate under the same legislative authorities as the other NIH research institutes.

Section N–B, Organizational and Functions, under the heading National Center for Human Genome Research (N4, formerly HN4), is revised as follows:

National Human Genome Research Institute (N4, formerly HN4). (1) Provides leadership for and formulates research goals and long-range plans to accomplish the mission of the Human Genome Project, including the study of the ethical, legal, and social implications of human genome research; (2) fosters, conducts, supports, and administers research and research training programs in human genome research by means of grants, contracts, cooperative agreements, and individual and institutional research training awards; (3) provides coordination for genome research, both nationally and internationally, and serves as a focal point within NIH and the Department of Health and Human Services for Federal interagency coordination, collaboration with industry and academia, and international cooperation; (4) plans, supports and administers intramural, collaborative and field research to study human genetic disease in its own laboratories, branches, and clinics; and (5) sponsors scientific meetings and symposia and collects and disseminates educational and informational materials related to human genome research to health professionals, the scientific community, industry, and the lay public.

This reorganization shall be effective January 14, 1997.

Dated: January 14, 1997.

Donna E. Shalala,

Secretary.

[FR Doc. 97–1849 Filed 1–24–97; 8:45 am]

BILLING CODE 4140–01–M

Administration for Children and Families

Submission for OMB Review; Comment Request

Title: Child Care Biannual Aggregate Report.

OMB No.: New Collection.

Description: This legislatively mandated report collects program and participant's data on all children and families receiving direct CCDF services. Aggregate data will be collected and will be used to determine the scope, type, and methods of child care delivery, and to provide a report to Congress.

Respondents: State governments, Guam, Virgin Islands, Puerto Rico and the District of Columbia.

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
ACF–800	54	2	40	4,320

Estimated Total Annual Burden Hours: 4,320

Additional Information: Copies of the proposed collection may be obtained by writing to The Administration for Children and Families, Office of Information Services, Division of Information Resource Management Services, 370 L'Enfant Promenade, S.W., Washington, D.C. 20447, Attn: ACF Reports Clearance Officer.

OMB Comment

OMB is required to make a decision concerning the collection of information between 30 and 60 days after publication of this document in the Federal Register. Therefore, a comment is best assured of having its full effect if OMB receives it within 30 days of publication. Written comments and recommendations for the proposed information collection should be sent directly to the following: Office of Management and Budget, Paperwork Reduction Project, 725 17th Street, N.W., Washington, D.C. 20503, Attn: Ms. Wendy Taylor.

Dated: January 21, 1997.

Douglas J. Godesky,

Reports Clearance Officer.

[FR Doc. 97–1851 Filed 1–24–97; 8:45 am]

BILLING CODE 4184–01–M

Food and Drug Administration

[Docket No. 96M–0456]

Home Access Health Corp.; Premarket Approval of the Home Access® HIV–1 Test System

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing its approval of the application by Home Access Health Corp. (HAHC), Hoffman Estates, IL, for premarket approval, under the Federal Food, Drug, and Cosmetic Act (the act), of the Home Access® HIV–1 Test System. After reviewing the recommendation of the Blood Products Advisory Committee (BPAC), FDA's Center for Biologics Evaluation and Research (CBER) notified the applicant, by letter of July 22, 1996, of the approval of the application.

DATES: Petitions for administrative review by February 26, 1997.

ADDRESSES: Written requests for copies of the summary of safety and effectiveness data and petitions for administrative review to the Dockets Management Branch (HFA–305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1–23, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Sukza Hwangbo, Center for Biologics Evaluation and Research (HFM–380), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852–1448, 301–827–3524.

SUPPLEMENTARY INFORMATION: On June 1, 1995, HAHC, Hoffman Estates, IL 60195–5200, submitted to CBER an application for premarket approval of the Home Access® HIV–1 Test System. This product is intended for self-use by individuals who wish to obtain anonymous human immunodeficiency virus Type 1 (HIV–1) testing and counseling. The HIV–1 assay kits approved for use in the Home Access® HIV–1 Test System are: (1) The Vironostika HIV–1 Microelisa System® manufactured by Organon Teknika Corp.; (2) the Genetic Systems LAV EIA HIV–1 enzyme immunoassay (EIA) manufactured by Genetic Systems; and (3) the Fluorognost® HIV–1 immunoflourescence assay (IFA) manufactured by Waldheim Pharmazuetika. The HAHC testing service consists of: (1) The Home Access® HIV–1 Home Collection Kit; (2) Client*trak*™ (Interactive Voice Response System, automated HIV/acquired immune deficiency syndrome (AIDS) educational announcement, and client database); (3) laboratory testing; and (4) counseling and referral services. Each collection kit contains: An instruction manual, an HIV/AIDS educational booklet in English and Spanish, a blood spot collection card precoded with a unique 11-digit Home Access® code number, two safety lancets, an alcohol wipe, a sterile gauze pad, a bandage, a foil return pouch containing a desiccant, a safety lancet disposal container, a shipping container, and a preaddressed and prepaid return envelope. The test procedure begins when the client activates a unique 11-digit code number by calling a toll-free telephone number. Clients use the kit to obtain samples of their own blood which is placed on the collection card that is precoded with the code number. The collection card is mailed to HAHC using the provided mailer. Upon receipt, the sample is analyzed using enzyme linked immunosorbent assays licensed for the detection of HIV–1 antibodies. Test results are available to the client from HAHC within 3 business days after shipment of the sample to the laboratory for the Express Kit and within 7 days for the Standard Kit. The service is recommended for use by individuals 18 years of age or older.

On June 22, 1994, CBER consulted BPAC, an FDA advisory committee, for their comments and recommendations regarding issues FDA should address when reviewing home collection testing kits for the detection of HIV and other serious or life-threatening medical conditions. BPAC commented that the benefits of an alternative means of accessing previously unreachable

populations of HIV positive individuals or persons infected with other serious diseases, far outweigh any risk to the individual's health posed by the test kit protocol or to the public's health by home testing. BPAC recommended that pilot studies be conducted to assess demographically, qualitatively, and quantitatively the effectiveness of test kits in targeted populations. BPAC also recommended that pilot studies be performed to determine the effectiveness of such services in ensuring client anonymity and providing adequate counseling. CBER considered the BPAC recommendations during its review of the premarket approval application for the Home Access® HIV–1 Test System. On July 22, 1996, CBER approved the application by a letter to the applicant from the Director, Office of Blood Research and Review, CBER.

The July 22, 1996, application approval letter restated postapproval conditions agreed to by HAHC in three letters to FDA dated June 19, 1996, and July 12 and 22, 1996. These conditions incorporate the June 22, 1994, BPAC recommendations. The postapproval conditions include the following: (1) HAHC will perform postmarketing monitoring studies and, after consultation with CBER, submit a detailed study protocol within 30 days of the product's entry into interstate commerce; (2) HAHC will qualify all test kits and perform acceptance testing on all lots to be used with the Home Access® HIV–1 Test System, including the Vironostika HIV–1 Microelisa System® manufactured by Organon Teknika Corp. and Fluorognost HIV–1 IFA® manufactured by Waldheim Pharmazuetika; (3) HAHC will not use Genetic Systems Corp. LAV EIA until the reagents for that assay have passed lot acceptance protocols; (4) HAHC will not commercialize the ''Standard Kit'' until transport claims for the U.S. Mail have been verified to have an acceptable rate of loss; (5) HAHC will change the accuracy claim of the Home Access® HIV–1 Test System from ''greater than 99.99% accurate'' to ''greater than 99.9% accurate;'' and (6) the package insert will be revised as described in a July 12, 1996, letter.

A summary of the safety and effectiveness data on which CBER based its approval is on file in the Dockets Management Branch (address above) and is available from that office upon written request. Requests should be identified with the name of the device and the docket number found in brackets in the heading of this document.

Opportunity for Administrative Review

Section 515(d)(3) of the the act (21 U.S.C. 360e(d)(3)) authorizes any interested person to petition, under section 515(g) of the act, for administrative review of CBER's decision to approve this application. A petitioner may request either a formal hearing under 21 CFR part 12 of FDA's administrative practices and procedures regulations or a review of the application and CDRH's action by an independent advisory committee of experts. A petition is to be in the form of a petition for reconsideration under 21 CFR 10.33(b). A petitioner shall identify the form of review requested (hearing or independent advisory committee) and shall submit with the petition supporting data and information showing that there is a genuine and substantial issue of material fact for resolution through administrative review. After reviewing the petition, FDA will decide whether to grant or deny the petition and will publish a notice of its decision in the Federal Register. If FDA grants the petition, the notice will state the issue to be reviewed, the form of review to be used, the persons who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may, at any time on or before February 26, 1997, file with the Dockets Management Branch (address above) two copies of each petition and supporting data and information, identified with the name of the device and the docket number found in brackets in the heading of this document. Received petitions may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 515(d), 520(h) (21 U.S.C. 360e(d), 360j(h))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Director, Center for Devices and Radiological Health (21 CFR 5.53).

Dated: January 7, 1997.

Kathryn C. Zoon,

Director, Center for Biologics Evaluation and Research.

[FR Doc. 97–1852 Filed 1–24–97; 8:45 am]

BILLING CODE 4160–01–F

Health Care Financing Administration

[Document Identifier: HCFA–643]

Agency Information Collection Activities: Proposed Collection; Comment Request

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Health Care Financing Administration (HCFA), Department of Health and Human Services, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding the burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

1. HCFA–643 *Type of Information Collection Request:* Reinstatement, without change, of previously approved collection for which approval has expired; *Title of Information Collection:* Hospice Survey and Deficiencies Report Form and Supporting Regulations 42 CFR Sections 488,488.26(c), 442.30(a)(4), 442, Subpart B,C,D,E and F; *Form No.:* HCFA 643; *Use:*. The survey report form and supporting regulations are needed to ensure provider compliance. In order to participate in the Medicare program, a hospice must meet certain Federal health and safety conditions of participation. The survey report form will be used by State surveyors to record data about a hospice's compliance with these conditions of participation in order to initiate the certification or recertification process. *Frequency:* Annually; *Affected Public:* State, Local or Tribal Govt, Federal Govt; *Number of Respondents:* 2,150; *Total Annual Responses:* 2,150; *Total Annual Hours:* 5,375.

To obtain copies of the supporting statement for the proposed paperwork collections referenced above, E-mail your request, including your address and phone number, to Paperwork@hcfa.gov, or call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections must be mailed within 60 days of this notice directly to

the HCFA Paperwork Clearance Officer designated at the following address: HCFA, Office of Financial and Human Resources, Management Analysis and Planning Staff, Attention: John Rudolph, Room C2–25–05, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

Dated: January 15, 1997.

Edwin J. Glatzel,

Director, Management Analysis and Planning Staff, Office of Financial and Human Resources.

[FR Doc. 97–1917 Filed 1–24–97; 8:45 am]

BILLING CODE 4120–03–P

Health Resources and Services Administration

Healthy Start Cooperative Agreements

AGENCY: Health Resources and Services Administration (HRSA).

ACTION: Notice of availability of funds.

SUMMARY: The HRSA announces that approximately $54 million dollars in fiscal year (FY) 1997 funds will be available for cooperative agreements to communities for the replication phase of the Healthy Start Initiative, hereafter called Healthy Start-Phase II. The Healthy Start Initiative is a program of projects which, since FY 1991, has developed and implemented community-based strategies to reduce infant mortality in areas with a high incidence of infant mortality. The purpose of Healthy Start-Phase II is to operationalize successful infant mortality reduction strategies developed during the demonstration phase and to launch Healthy Start projects in new rural and urban communities (i.e., communities currently without a Healthy Start-funded project). Competition is open to community-based entities interested in replicating or adapting existing Healthy Start models with assistance from selected Healthy Start projects already in operation. The project period is four years, subject to continuing availability of funds.

Within the HRSA, the Healthy Start Initiative is administered by the Maternal and Child Health Bureau (MCHB). Cooperative agreements for Healthy Start-Phase II will be made under the program authority of Section 301 of the Public Health Service Act. Funds for these awards were appropriated under Public Law 104–208.

The PHS is committed to achieving the health promotion and disease prevention objectives of Healthy People 2000, a PHS led national activity for setting priority areas. The Healthy Start-Phase II program will directly address the Healthy People 2000 objectives related to maternal and infant health, and especially health status objective 14.1, to reduce the infant mortality rate to no more than 7 per 1000 live births. Potential applicants may obtain a copy of Healthy People 2000 (Full Report: Stock No. 017–001–00474–0) or Healthy People 2000 (Summary Report: Stock No. 017–001–00473–1) through the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402–9325 (telephone 202 783–3238).

The PHS strongly encourages all grant recipients to provide a smoke-free workplace and promote the non-use of all tobacco products.

In addition, Public Law 103–227, the Pro-Children Act of 1994, prohibits smoking in certain facilities (or in some cases, any portion of a facility) in which regular or routine education, library, day care, health care or early childhood development services are provided to children.

ADDRESSES: The Federal Register notices and application guidance for the Healthy Start program are available on the World Wide Web via the Internet at address: http://www.os.dhhs.gov/hrsa/mchb. Click on the file name you want to download to your computer. It will be saved as a self-extracting Macintosh or WordPerfect 5.1 file. To decompress the file once it is downloaded, type in the file name followed by a <return>. The file will expand to a WordPerfect 5.1 file.

For applicants for Healthy Start cooperative agreements who are unable to access application materials electronically, a hard copy (Revised PHS form 5161–1, approved under OMB clearance number 0937–0189) must be obtained from the HRSA Grants Application Center. Requests should specify the category or categories of activities for which an application is requested so that the appropriate forms, information and materials may be provided. The Center may be contacted by: Telephone Number: 1–888–300–HRSA, FAX Number: 301–309–0579, E-mail Address: HRSA.GAC@x.netcom.com. Completed applications should be returned to: Grants Management Officer (CFDA #93.926), HRSA Grants Application Center, 40 West Gude Drive, Suite 100, Rockville, Maryland 20850.

DATES: The application deadline date is April 15, 1997. Applications will be considered to be on time if they are either: (1) Received on or before the deadline date, or (2) postmarked on or before the deadline date and received in time for orderly processing. Applicants should request a legibly dated receipt from a commercial carrier or the U.S. Postal Service, or obtain a legibly dated U.S. Postal Service postmark. Private metered postmarks will not be accepted as proof of timely mailing. Late competing applications or those sent to an address other than that specified in the **ADDRESSES** section will be returned to the applicant.

FOR FURTHER INFORMATION: Requests for technical or programmatic information should be directed to Thurma McCann, M.D., M.P.H., Director, Division of Healthy Start, Maternal and Child Health Bureau, HRSA, 5600 Fishers Lane, Room 11–A–05, Rockville, Maryland 20857, telephone 301–443–0543. Requests for information concerning administration and business management issues should be directed to Sandy Perry, Chief, Grants Management Branch, Maternal and Child Health Bureau, 5600 Fishers Lane, Room 18–12, Rockville, Maryland, 20857, telephone 301–443–1440.

SUPPLEMENTARY INFORMATION:

Program Background and Objectives

The Healthy Start Initiative was established as a demonstration program in 1991, based on the premise that new community-based strategies were needed to attack the causes of infant mortality and low birthweight especially among high risk populations.

Currently, there are 22 Healthy Start demonstration projects that have developed strategies to reduce infant mortality in their respective communities. Several of these strategies have been highly effective in achieving project objectives.

Approved applicants for this competition must agree to receive peer mentoring from existing Healthy Start grantees regarding the replication or adaptation of one or more of the strategies identified below. These strategies are categorized into nine intervention models (one organizational and eight service):

1. *Community-Based Consortium*—Establishment of a local community-based consortium/advisory board/coalition (consortium) of consumers (i.e., recipients of project services within the catchment area), providers, and others in an advisory capacity for program planning, operations, monitoring, and evaluation.

2. *Family Resource Center*—Provision of a community driven comprehensive array of client services at a single site at an accessible community location.

3. *Enhanced Clinical Services*—Enhancement of quality, access, utilization, and/or client satisfaction of clinical services that are provided by providers such as health department clinics, hospitals, and community clinics.

4. *Risk Prevention and Reduction*—Provision of specialized services which address population based and/or system oriented issues to reduce, modify, and/or eliminate medical/psycho-social stressors or unhealthy behaviors that threaten or affect childbearing women and their families.

5. *Care Coordination/Case Management*—Provision of services in a coordinated approach through client assessment, monitoring, facilitation and follow-up of utilization of needed services.

6. *Outreach/Client Recruitment*—Provision of case finding services which actively reach out into the community to recruit perinatal clients.

7. *Facilitating Services*—Provision of enabling services such as translation, transportation, and child care to assist clients to receive services and participate in infant mortality reduction programs.

8. *Education and Training*—Provision of planned education and public information to address risk factors associated with infant mortality, and to improve individual and community health.

9. *Adolescent Programs*—Provision of services which focus on the unique needs of adolescents to help them understand the need for pregnancy prevention and the complexities of childbearing.

Eligible Applicants

Applicants for Healthy Start-Phase II cooperative agreements must be public or nonprofit private organizations, or tribal and other organizations representing American Indians, Alaskan Natives, Native Hawaiians,or Pacific Islanders, applying as or on behalf of an existing community-based consortium, and have infant mortality reduction initiatives already underway. In the case of overlapping project areas or more than one applicant for the same project area, only one application will be considered for funding. Applicants must be in partnership with a current consortium which has been: (1) In operation at least the last 2 years prior to date of the application; and (2) involved in MCH activities (e.g. health fairs, support groups) in the project area. A consortium which has organized as a community-based organization may apply if it has demonstrable management and administrative experience.

Eligible Project Areas

New communities targeted under Healthy Start-Phase II are those in which infant mortality problems are most severe, resources can be concentrated, implementation is manageable, and progress can be measured.

A project area is defined as a geographic area for which improvements have been planned and are being implemented. A project area must represent a reasonable and logical catchment area. The project consortium's responsibility for this catchment area includes the provision of ongoing advice to and oversight of the delivery of project services for the duration of the project period. Proposed activities should incorporate the Healthy Start principles of innovation, community commitment and involvement, increased access, service integration, and personal responsibility.

Applicants are eligible for funding under Healthy Start-Phase II if, for the baseline three-year period of 1991–1993 (unless other wise specified), the proposed project area had the following verifiable characteristics:

—An average infant mortality rate of at least 12.9 deaths per 1,000 live births, from vital statistics data, and at least three of the following:

- A percentage of births to teens which exceeded the national average of 5.0 percent of live births;
- A percentage of low birth weight births which exceeded the national average of 7.1 percent of live births;
- A rate of postneonatal mortality which exceeded the national average of 3.6 per 1,000 live births;
- A percentage of children under 18 with family incomes below the Federal Poverty Level which exceeded the national average of 22 percent for 1993 only.

Funding Category

The single category open for competition this year will be cooperative agreements with new communities seeking funds to replicate or adapt successful Healthy Start strategies to reduce infant mortality, in conjunction with individual programs already underway. Approximately $54,000,000 is available to fund up to 30 new communities, with awards ranging from $250,000 up to $2,000,000 per project for one year. The project period is up to four years, subject to continuing availability of funds.

Consideration for funding will be given to projects which operationalize and replicate one or more of the identified service intervention models, whose implementation appears reasonable and appropriate, which can be accomplished within the project period, and which are linked to a perinatal system of care.

In addition, Healthy Start-Phase II funds may be used only to supplement, and not to supplant or replace, either existing State or local funds, or State or local funds that would otherwise be made available to the project. Any appearance of supplantation will disqualify the application.

It is anticipated that intensive Federal programmatic involvement and substantial consultation will be required with grantees and mentoring organizations in these cooperative agreements. Federal involvement may include planning, guidance, coordination and participation in programmatic activities. Periodic meetings, conferences, and/or communications with the award recipients are held to review mutually agreed upon goals and objectives and to assess progress. The outcome of Federal oversight activities could lead to adjustments in priority tasks for a project.

A separate, limited competition among existing Healthy Start projects will complement these new Healthy Start-Phase II grants. It will provide funding for: (1) continued support of successful strategies and interventions; and (2) peer mentoring of health care providers, including managed care organizations and the new Healthy Start communities. This limited competition will be conducted separately and apart from the open competition announced in this notice.

Special Concerns

HRSA's Maternal and Child Health Bureau places special emphasis on improving service delivery to women, infants, children and youth from communities with limited access to comprehensive care. In order to assure access and cultural competence, it is expected that projects will involve individuals from the populations to be served in the planning and implementation of the project. The Bureau's intent is to ensure that project interventions are responsive to the cultural and linguistic needs of special populations, that services are accessible to consumers, and that the broadest possible representation of culturally distinct and historically underrepresented groups is supported through programs and projects sponsored by the MCHB. This same special emphasis applies to improving

service delivery to children with special health care needs.

In keeping with the goals of advancing the development of human potential, strengthening the Nation's capacity to provide high quality education by broadening participation in MCHB programs of institutions that may have perspectives uniquely reflecting the Nation's cultural and linguistic diversity, and increasing opportunities for all Americans to participate in and benefit from Federal public health programs, HRSA will place a funding priority on projects from Historically Black Colleges and Universities (HBCU) or Hispanic Serving Institutions in all categories and subcategories in this notice for which applications from academic institutions are encouraged. This is in conformity with the Federal Government's policies in support of White House Initiatives on Historically Black Colleges and Universities (Executive Order 12876) and Educational Excellence for Hispanic Americans (Executive Order 12900). An approved proposal from a HBCU or Hispanic Serving Institution will receive a 0.5 point favorable adjustment of the priority score in a 4 point range before funding decisions are made.

Evaluation Protocol

All Healthy Start projects, must incorporate a carefully designed and well planned evaluation protocol capable of demonstrating and documenting measurable progress toward achieving the project's stated goals. The protocol should be based on a clear rationale relating the grant activities, the project goals, and the evaluation measures. Wherever possible, the measurements of progress toward goals should focus on health outcome indicators, rather than on intermediate measures such as process or outputs. A project lacking a complete and well-conceived evaluation protocol as part of the planned activities will not be funded.

Review Process

Because of the anticipated overwhelming response to this announcement and the inability to fund all that may be approved, applications for the Healthy Start-Phase II will be reviewed in two stages. Stage 1 will consist of a competitive review by an Objective Review Committee (ORC) of all of the applications that have been determined eligible. Once the ORC has completed this initial review, those applicants determined to be highly competitive will receive a Stage 2 pre-award validation site visit to reaffirm the information contained in the applications and the applicant's ability to replicate the chosen model(s). There will be separate ORC panels for urban and rural applicants.

Five pre-application conferences for interested and potential applicants will be held February, 1997. These conferences will present the Healthy Start Initiative and its models of intervention, as well as answer questions relevant to the solicitation and review of applications. These conferences are planned for the metropolitan areas of Washington, D.C., (February 10), Atlanta, GA (February 12), Los Angeles, CA (February 20), Kansas City, MO (February 24), and Rockville, MD (February 28).

Interested parties should complete the registration form located within the application kit and return it via fax by February 1, 1997 to the National Center for Education in Maternal and Child Health (NCEMCH). An eletronic version of the registration form is also available through the Healthy Start eletronic mail addresss listed below. The completed registration form should be faxed to NCEMCH at (703) 524–9335.

For more information, please refer to the guidance or contact NCEMCH's Healthy Start Project via electronic mail, healthystart@list.ncemch.org or telephone 703–524–6537.

Review Criteria for Applicants

The following factors will be used, to review and evaluate applications for awards announced in this notice:

Stage 1

- Factor I (Weight-5 percent): The soundness of the application, as measured by the logical flow of the narrative, the quality of its content and its proposed methodology.
- Factor II (Weight-35 percent): The extent to which the proposed project is adequately described, as measured by the following:

—The extent to which the demonstrated need(s) of the target population to be served is adequately described and supported in the needs assessment and summarized in the problem statement.
—The extent to which the proposed project plan addresses the appropriate documented need(s) of the targeted population, including attention to the cultural and linguistic needs of consumers.
—The extent to which the proposed project plan is congruent with the scope of one or more of the eight service models of intervention.
—The extent to which the proposed project plan is adequately described. This description should delineate the specific model strategies included in the proposed project plan, and identify the actual or anticipated agencies and resources that will be used to implement those strategies.
—The extent to which the proposed project plan will enhance existing infant mortality reduction activities already underway within the community.
—The extent to which the project plan's objectives incorporate performance based indicators that are measurable, logical, and appropriate in relation to the specific problems and Healthy Start model(s) identified.
—The extent to which the activities involved in each proposed model appear feasible and likely to contribute to the achievement of the project's objectives within each budget period.

- Factor III (Weight-20 percent): The applicant's fiscal and program management capability and/or capacity, as measured by:

—The extent of the applicant's capability to carry out the replication or adaptation of the proposed model(s) within the project area and to play a substantive role in carrying out project activities associated with the model(s).
—The extent to which the applicant has demonstrated an ability to maximize and coordinate existing resources and acquire additional resources.
—The extent to which the plan to measure program performance is well organized, adequately described, and complies with MCHB's evaluation protocol for its discretionary grants and cooperative agreements.

- Factor IV (Weight-10 percent): Evidence of support from and linkage to the State and local perinatal systems, as measured by:

—The extent to which the project is linked to an existing perinatal system of care and enhances the applicant's infant mortality reduction program already in operation.
—The extent of actual or planned involvement of the State and local MCH and/or the Indian Health Service Area MCH Coordinator (as appropriate) and other agencies is clearly evident.
—The extent to which the project is consonant with overall State efforts to develop comprehensive community based systems of services, and focuses on service needs identified in the State's MCH Services Block Grant Plan.

- Factor V (Weight-15 percent): Structure and Role of Applicant's Consortium, as measured by:

—The effectiveness of the consortium activities during its years of existence, as demonstrated by evidence that the consortium has an ongoing advisory role in the project community's MCH activities.
—The extent to which the consortium includes appropriate representation of project area consumers, providers, and other key stake holders.
—The role and plan of action of the consortium in the implementation of the proposed project plan is adequately described.

• Factor VI (Weight-15 percent): The appropriateness of the budget, as measured by:

—The extent to which the proposed budget is realistic, adequately justified, and consistent with the proposed project plan.
—The extent to which the costs of administration and evaluation are reasonable and proportionate to the costs of service provision.
—The degree to which the costs of each model are economical in relation to the proposed service utilization.

Stage 2

• Validation Site Visit (Weight-100 percent):

—Reaffirmation of the applicant's information, consortium's structure and activities, and existing service systems and operations, based on a pre-award site visit to those applicants for whom the objective review committee has scored as highly competitive. The site visit will include assessments of the following:

I. Grantee Capability
II. Consortium Role and Structure
III. State and Local Perinatal System Linkage
IV. Other Factors As Appropriate

Preference

Preference for funding will be given to projects which: (1) Help to achieve an equitable geographical distribution of projects across all States and territories; or (2) show strong evidence of sustainability beyond the period of federal Healthy Start funding, such as those in Enterprise Zones/ Empowerment Communities or with other substantial commitments of public or private sector resources.

Allowable Costs

The Health Resources and Services Administration will support reasonable and necessary costs of Healthy Start-Phase II grants within the scope of approved activities. Allowable costs may include salaries, equipment and supplies, travel, contractual, consultants, and others, as well as indirect costs. HRSA adheres to administrative standards reflected in the Code of Federal Regulations 45 CFR Part 92 and 45 CFR Part 74. All other sources of funding to support this project must be accurately reflected in the applicant's budget.

Reports

A successful applicant under this notice will submit reports in accordance with the provisions of the general regulations which apply under 45 CFR Part 74, Subpart J, Monitoring and Reporting of Program Performance, with the exception of State and local governments, to which 45 CFR Part 92, Subpart C reporting requirements will apply. Financial reporting will be required in accordance with 45 CFR Part 74, Subpart H, with the exception of State and local governments, to which 45 CFR 92.20 will apply.

Public Health System Reporting Requirements

This program is subject to the Public Health System Reporting Requirements (approved under OMB No. 0937–0195). Under these requirements, community-based nongovernmental applicants must prepare and submit a Public Health System Impact Statement (PHSIS). The PHSIS is intended to provide information to State and local health officials to keep them apprised of proposed health services grant applications submitted by community-based nongovernmental organizations within their jurisdictions. Community-based, nongovernmental applicants are required to submit the following information to the head of the appropriate State and local health agencies in the area(s) to be impacted no later than the Federal application receipt due date:

(a) A copy of the face page of the application (SF 424).
(b) A summary of the project (PHSIS), not to exceed one page, which provides:
(1) A description of the population to be served.
(2) A summary of the services to be provided.
(3) A description of the coordination planned with the appropriate State or local health agencies.

Executive Order 12372

This program has been determined to be a program which is subject to the provisions of Executive Order 12372 concerning intergovernmental review of Federal programs by appropriate health planning agencies, as implemented by 45 CFR Part 100. Executive Order 12372 allows States the option of setting up a system for reviewing applications from within their States for assistance under certain Federal programs. The application packages to be made available under this notice will contain a listing of States which have chosen to set up such a review system and will provide a single point of contact (SPOC) in the States for review. Applicants (other than federally-recognized Indian tribal governments) should contact their State SPOCs as early as possible to alert them to the prospective applications and receive any necessary instructions on the State process. For proposed projects serving more than one State, the applicant is advised to contact the SPOC of each affected State. The due date for State process recommendations is 60 days after the application deadline for new and competing awards. The granting agency does not guarantee to ''accommodate or explain'' for State process recommendations it receives after that date.

The OMB Catalog of Federal Domestic Assistance number is 93.926.

Dated: January 22, 1997.

Ciro V. Sumaya,

Administrator.

[FR Doc. 97–1928 Filed 1–24–97; 8:45 am]

BILLING CODE 4160–15–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4200–N–11]

Submission for OMB Review: Comment Request

AGENCY: Office of Administration, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: Comments due date: February 26, 1997.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments must be received within thirty (30) days from the date of this Notice. Comments should refer to the proposal by name and/or OMB approval number and should be sent to: Joseph F. Lackey, Jr., OMB Desk Officer, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Kay F. Weaver, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street,

Southwest, Washington, DC 20410, telephone (202) 708-0050. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Ms. Weaver.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The Notice lists the following information: (1) the title of the information collection proposal; (2) the office of the agency to collect the information; (3) the OMB approval number, if applicable; (4) the description of the need for the information and its proposed use; (5) the agency form number, if applicable; (6) what members of the public will be affected by the proposal; (7) how frequently information submissions will be required; (8) an estimate of the total number of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (9) whether the proposal is new, an extension, reinstatement, or revision of an information collection requirement; and (10) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: January 14, 1997.

David S. Cristy,

Acting Director, Information Resources, Management Policy and Management Division.

Notice of Submission of Proposed Information Collection to OMB

Title of Proposal: Report on Program Utilization—Section 8 Moderate Rehabilitation.

Office: Public and Indian Housing.

OMB Approval Number: 2577–0144.

Description of the Need for the Information and its Proposed Use: The form is used by HUD to monitor Public Housing Agency's (PHA) progress in implementing the Moderate Rehabilitation Program and as a means of approving PHA requisitions for funds. Also, the form will assist HUD in identifying those projects where a reduction in the number of units under an Annual Contributions Contract (ACC) is required due to underutilization by the PHA.

Form Number: HUD–52685.

Respondents: State, Local, or Tribal Government.

Frequency of Submission: Annually and Quarterly.

Reporting Burden:

	Number of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
Annual Reporting	500		1		.5		250
Quarterly Reporting	100		4		.5		200

Total Estimated Burden Hours: 450.

Status: Reinstatement, with changes.

Contact: Diane A. Thompson, HUD, (202) 708–0477 x4079; Joseph F. Lackey, Jr., OMB, (202) 395–7316.

[FR Doc. 97–1840 Filed 1–24–97; 8:45 am]

BILLING CODE 4210–01–M

[Docket No. FR–4200–N–13]

Submission for OMB Review: Comment Request

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for emergency review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: The due date for comments is: February 3, 1997.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and should be sent to: Joseph F. Lackey, Jr., HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, D.C. 20503.

FOR FURTHER INFORMATION CONTACT: Kay F. Weaver, Reports Management Officer, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, D.C. 20410, telephone (202) 708–0055. This is not a toll-free number. Copies of the documents submitted to OMB may be obtained from Ms. Weaver.

SUPPLEMENTARY INFORMATION: This Notice informs the public that the Department of Housing and Urban Development has submitted to OMB, for emergency processing, ''One Strike and You're Out'' Progress Questionnaire.

On March 28, 1996, the President announced a ''One Strike and You're Out'' policy for public housing residents. In addition to reiterating the existing screening and eviction authority of Public Housing Agencies (PHAs) the ''One Strike'' policy includes: (1) A new authority for PHAs to deny occupancy on the basis of illegal drug-related activities and alcohol abuse when such abuse leads to behavior that threatens the health, safety, or peaceful enjoyment of the premises by other residents, and (2) a revision to the Public Housing Management Assessment Program (PHMAP) system, to include a new evaluation component on security that measures PHA performance in implementing effective screening and eviction policies and other anti-crime strategies.

The questionnaire will help HUD to determine the progress PHAs have made in 1996 towards implementing this important crime reduction and lease enforcement strategy. The information will be used to help the Department determine what kind of training resources, instruction and technical assistance will be required in 1997 for successful implementation of the ''One Strike'' policy.

The Department has submitted the proposal for the collection of information to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35). The Department has requested emergency clearance of the collection of information, as described below, with approval being sought by January 30, 1997:

(1) Title of the information collection proposal: ''One Strike and You're Out'' Progress Questionnaire.

(2) Summary of the collection of information: PHAs will answer ten questions concerning implementation of the ''One Strike and You're Out'' policy in Notice PIH 96–16 (HA), dated April 12, 1996.

(3) Description of the need for the information and its proposed use: HUD will use the information to determine

where training and technical assistance efforts will be best employed in 1997. The information will also help HUD monitor the progress of PHAs implementing the ''One Strike'' policy to ensure that our nation's neediest citizens can live in peace and safety that they deserve.

(4) Description of the likely respondents, and proposed frequency of response to the collection of information: State, Local Governments will submit the questionnaire one-time.

(5) Estimate of the total reporting burden that will result from the collection of information.

Reporting Burden

Number of respondents: 3,200 (@ 15 minutes per response).

Total Estimated Burden Hours: 480.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: January 17, 1997.

Kay F. Weaver,

Acting Director, IRM Policy and Management Division.

[FR Doc. 97–1841 Filed 1–24–97; 8:45 am]

BILLING CODE 4210–01–M

Office of Administration

[Docket No. FR–4200–N–14]

Submission for OMB Review: Comment Request

AGENCY: Office of Administration, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: Comments due date: February 26, 1997.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments must be received within thirty (30) days from the date of this Notice. Comments should refer to the proposal by name and/or OMB approval number and should be sent to: Joseph F. Lackey, Jr., OMB Desk Officer, Officer of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Kay F. Weaver, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, Southwest, Washington, DC 20410, telephone (202) 708–0050. this is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Ms. Weaver.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The Notice lists the following information: (1) the title of the information collection proposal; (2) the office of the agency to collect the information; (3) the OMB approval number, if applicable; (4) the description of the need for the information and its proposed use; (5) the agency form number, if applicable; (6) what members of the public will be affected by the proposal; (7) how frequently information submissions will be required; (8) an estimate of the total number of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (9) whether the proposal is new, an extension, reinstatement, or revision of an information collection requirement; and (10) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Authority: Section 3507 of the Paperwork Reduction act of 1995, 44 U.S.C. 35, as amended.

Dated: January 16, 1997.

David S. Cristy,

Acting Director, Information Resources, Management Policy and Management Division.

Notice of Submission of Proposed Information Collection to OMB

Title of Proposal: General Conditions for Construction—Public and Indian Housing Programs.

Office: Public and Indian Housing.

OMB Approval Number: 2577–0094.

Description of the Need for the Information and its Proposed Use: The form is required for construction contracts awarded by Public Housing Agencies (PHAs) and Indian Housing authorities (IHAs). The form includes those clauses required by OMB's common rule on grantee procurement, implemented at HUD in 24 CFR 85.36, HUD program regulations on grantee procurement, and HUD Handbooks implementing those regulations. The form is used by PHAs and IHAs in solicitations to provide necessary contract clauses.

Form Number: HUD–5370.

Respondents: State, Local, or Tribal Government.

Frequency of Submission: On Occasion.

Reporting Burden:

	Number of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
Recordkeeping	2,694		1		1		2,694

Total Estimated Burden Hours: 2,694.

Status: Reinstatement, with changes.

Contact: Andrew Suski, HUD, (202) 708–4703; Joseph F. Lackey, Jr., OMB, (202) 395–7316.

[FR Doc. 97–1842 Filed 1–24–97; 8:45 am]

BILLING CODE 4210–01–M

[Docket No. FR–4200–N–12]

Submission for OMB Review: Comment Request

AGENCY: Office of Administration, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: Comments due date: February 26, 1997.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments must be received within thirty (30) days from the date of this Notice. Comments should refer to the proposal by name and/or OMB approval number and should be sent to: Joseph F. Lackey, Jr., OMB Desk Officer, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT:

Kay F. Weaver, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, Southwest, Washington, DC 20410, telephone (202) 708–0050. This is not a

toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Ms. Weaver.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the OMB approval number, if applicable; (4) the description of the need for the information and its proposed use; (5) the agency form number, if applicable; (6) what members of the public will be affected by the proposal; (7) how frequently information submissions will be required: (8) an estimate of the total number of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (9) whether the proposal is new, an extension, reinstatement, or revision of an information collection requirement; and (10) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk officer for the Department.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: January 16, 1997.

David S. Cristy,

Acting Director, Information Resources, Management Policy and Management Division.

Notice of Submission of Proposed Information Collection to OMB

Title of Proposal: Mark to Market/ Portfolio Reengineering Demonstration Program Guidelines Proposal Submission Requirements and Processing.

Office: Housing

OMB Approval Number: 2502–0515.

Description of the Need for the Information and its Proposed Use: This information is required from projects that have FHA-insured mortgages and that receive Section 8 rent assistance. This notice describes the application and processing procedures for a demonstration program that is designed to restructure the financing of the projects. The demonstration will also test the desirability of multifamily projects meeting their insurance and/or Section 8 assistance.

Form Number: None.

Respondents: Individuals or Households, Business or Other For-Profit, and Not For-Profit Institutions.

Frequency of Submission: On Occasion.

Reporting Burden:

	Number of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
Information Collection	200		1		80		16,000

Total Estimated Burden Hours: 16,000.

Status: Extension, without changes.

Contact: George C. Dipman, HUD, (202) 708–1220 x2574; Joseph F. Lackey, Jr., OMB, (202) 395–7316.

[FR Doc. 97–1843 Filed 1–24–97; 8:45 am]

BILLING CODE 4210–01–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Klamath Fishery Management Council Meeting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of meeting.

SUMMARY: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. App. I), this notice announces a meeting of the Klamath Fishery Management Council, established under the authority of the Klamath River Basin Fishery Resources Restoration Act (16 U.S.C. 460ss *et seq.*). The Klamath Fishery Management Council makes recommendations to agencies that regulate harvest of anadromous fish in the Klamath River Basin. This meeting will address fall chinook stock projections for 1997, reports on fall chinook returns to the Klamath River in 1996, anticipated issues and constraints affecting 1997 harvests, and technical reports from the Council's Technical Advisory Team. The meeting is open to the public.

DATES: The Klamath Fishery Management Council will meet from 9:00 a.m. to 5:30 p.m. on Tuesday, February 18, 1996.

PLACE: The meeting will be held at the DoubleTree Hotel, 3555 Round Barn Blvd., Santa Rosa, California.

FOR FURTHER INFORMATION CONTACT: Dr. Ronald A. Iverson, Project Leader, U.S. Fish and Wildlife Service, P.O. Box 1006 (1215 South Main), Yreka, California 96097–1006, telephone (916) 842–5763.

SUPPLEMENTARY INFORMATION: For background information on the Klamath Council, please refer to the notice of their initial meeting that appeared in the Federal Register on July 8, 1987 (52 FR 25639).

Dated: January 17, 1997.

Thomas J. Dwyer,

Acting Regional Director.

[FR Doc. 97–1863 Filed 1–24–97; 8:45 am]

BILLING CODE 4310–55–P

Bureau of Land Management

[WY–010–5101–00–K022, WYW–131027]

Notice of Availability and Public Meeting on the Enviromental Impact Statement for the Greybull Valley Irrigation District Dam and Reservoir Project, WY

AGENCIES: Bureau of Land Management, Interior and Army Corps of Engineers, Defense.

ACTION: Notice of Availability and Notice of Public Meeting on the Draft Environmental Impact Statement for the Greybull Valley Irrigation District Dam and Reservoir Project for public review and comment, Park County, Wyoming.

SUMMARY: A Draft Environmental Impact Statement (DEIS) for a proposal from the Greybull Valley Irrigation District (GVID) to construct, operate, and maintain a 150-foot-high zoned-earth embankment dam and an associated 33,470 acre-foot impoundment in an unnamed drainage west of Roach Gulch, a tributary of the Greybull River, on public lands in Park County, Wyoming, is available for public review. The DEIS describes and documents the analysis of three alternatives and discloses each alternative's environmental effects. A public meeting for comment on the DEIS will be held.

DATES: Written comments concerning the analysis will be accepted for 60 days

following the date the Environmental Protection Agency (EPA) publishes the notice of filing of the DEIS in the Federal Register. When the closing date for public comments is known, it will be published in the local newspapers. Comments should be sent to BLM, Worland District; Don Ogaard, Project Manager; P.O. Box 119; Worland, Wyoming 82401–0119. A public meeting will be held in Emblem, Wyoming on January 29, 1997, to provide opportunities for the public to meet with representatives from the BLM and the Corps, and comment on the DEIS. The meeting will be held at the Emblem Community Hall, beginning at 6:30 p.m.

ADDRESSES: Copies of the DEIS may be reviewed at the following locations: Worland District BLM Office, 101 South 23rd Street, (contact Don Ogaard, BLM Project Manager) Worland, Wyoming; Wyoming State BLM Office, 5353 Yellowstone Road, Cheyenne, Wyoming (Susan Bennett, Supervisor, Records and Public Service Group); Army Corps of Engineers, Cheyenne Regulatory Office, 2232 Dell Range Blvd, Suite 210, Cheyenne (Chandler Peter, Corps Project Manager); Army Corps of Engineers, Omaha District Office, 215 N. 17th Street, Omaha, Nebraska (Becky Latka, EIS Technical Manager); and county, city, and college libraries near the proposed project.

FOR FURTHER INFORMATION CONTACT: Don Ogaard, BLM Project Manager, Bureau of Land Management, Worland District Office, P.O. Box 119, 1101 South 23rd Street, Worland, Wyoming 82401–0119, telephone (307) 347–5160; or Candace M. Thomas, Chief, Environmental Analysis Branch, Planning Division, Army Corps of Engineers, Omaha District, 215 North 17th Street, Omaha, Nebraska 68102–4978, telephone (402) 221–4598.

SUPPLEMENTARY INFORMATION: The Greybull Valley Irrigation District (GVID) proposes to construct a 150-foot-high zoned-earth embankment dam in an unnamed drainage west of Roach Gulch, a tributary of the Greybull River, in Park County, Wyoming. This dam would impound 33,470 acre-feet of water, inundating about 700 acres of BLM-administered public lands. The GVID's purpose and need for the proposal is primarily to provide early and late season water for irrigated crops; and to allow better overall regulation of their system. The DEIS also considers an alternative location in Blackstone Gulch, another tributary of the Greybull River; as well as the ''No Action'' Alternative, under which no dam would be built.

The DEIS is not a decision document. The purpose of the DEIS is to provide sufficient information for the BLM and Corps to make an informed decision about GVID's proposal. It is a document disclosing the likely environmental consequences of implementing the proposed action or one of the alternatives to that action. The BLM's Preferred Alternative is Alternative B, Proposed Action, as modified by the mitigation described in Chapter 5 of the DEIS. The Corps does not identify a Preferred Alternative at this time.

Before GVID may construct the project, it must obtain Federal, State, county, and local permits. Because the reservoir would inundate public land administered by the BLM, the GVID must obtain a Right-of-Way Grant from the BLM. A permit under Section 404 of the Clean Water Act to conduct operations in a water of the United States, issued by the Corps, would also be required. As part of the process for granting the permits, these agencies must consider the GVID's proposal under NEPA.

Comments, including names and addresses of respondents, will be available for public review at the BLM's Worland District office during regular business hours (7:30 a.m. to 4:30 p.m.), Monday through Friday, except holidays and may be published as part of the final environmental impact statement. Individual respondents may request confidentiality. If you wish to withhold your name or address from public review or from disclosure under the Freedom of Information Act, you must state this prominently at the beginning of your comment. Such requests will be honored to the extent allowed by law. All submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be made available for public inspection in their entirety.

Because the final EIS may be issued in partial text format, the draft EIS should be retained for future reference.

Dated: January 16, 1997.

Alan L. Kesterke,

Associate State Director.

[FR Doc. 97–1902 Filed 1–24–97; 8:45 am]

BILLING CODE 4310–22–P

[CO–934–97–5700–00; COC58657]

Colorado; Proposed Reinstatement of Terminated Oil and Gas Lease

Under the provisions of Public Law 97–451, a petition for reinstatement of oil and gas lease COC58657, Archuleta County, Colorado, was timely filed and was accompanied by all required rentals and royalties accruing from January 1, 1997 the date of termination.

No valid lease has been issued affecting the lands. The lessee has agreed to new lease terms for rentals and royalties at rates of $10 per acre and 16⅔ percent, respectively. The lessee has paid the required $500 administrative fee for the lease and has reimbursed the Bureau of Land Management for the cost of this Federal Register notice.

Having met all the requirements for reinstatement of the lease as set out in Section 31(d) and (e) of the Mineral Leasing Act of 1920, as amended, (30 U.S.C. 188(d) and (e), the Bureau of Land Management is proposing to reinstate the lease effective January 1, 1997, subject to the original terms and condition of the lease and the increased rental and royalty rates cited above.

Questions concerning this notice may be directed to Milada Krasilinec of the Colorado State Office (303) 239–3767.

Dated: January 13, 1997.

Milada Krasilinec,

Land Law Examiner, Oil and Gas Management Team.

[FR Doc. 97–1915 Filed 1–24–97; 8:45 am]

BILLING CODE 4310–JB–M

[WY–921–41–5700; WYW124445]

Notice of Proposed Reinstatement of Terminated Oil and Gas Lease

January 15, 1997.

Pursuant to the provisions of 30 U.S.C. 188(d) and (e), and 43 CFR 3108.2–3(a) and (b)(1), a petition for reinstatement of oil and gas lease WYW124445 for lands in Lincoln County, Wyoming, was timely filed and was accompanied by all the required rentals accruing from the date of termination.

The lessee has agreed to the amended lease terms for rentals and royalties at rates of $10.00 per acre, or fraction thereof, per year and 16⅔ percent, respectively.

The lessee has paid the required $500 administrative fee and $125 to reimburse the Department for the cost of this Federal Register notice. The lessee has met all the requirements for reinstatement of the lease as set out in Section 31 (d) and (e) of the Mineral Lands Leasing Act of 1920 (30 U.S.C. 188), and the Bureau of Land Management is proposing to reinstate lease WYW124445 effective July 1, 1996, subject to the original terms and conditions of the lease and the

increased rental and royalty rates cited above.

Theresa M. Stevens,

Acting Chief, Leasable Minerals Section.

[FR Doc. 97–1905 Filed 1–24–97; 8:45 am]

BILLING CODE 4310–22–P

[OR–958–0777–63; GP6–0246; OR–19615 (WA)]

Public Land Order No. 7237; Revocation of the Executive Order Dated October 24, 1916; Washington

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order revokes in its entirety an Executive order which withdrew approximately 155 acres of public lands for the Bureau of Land Management's Powersite Reserve No. 556. The lands are no longer needed for the purpose for which they were withdrawn. The lands are included in overlapping withdrawals and remain closed to surface entry and mining. The lands have been and will remain open to mineral leasing.

EFFECTIVE DATE: January 27, 1997.

FOR FURTHER INFORMATION CONTACT: Betty McCarthy, BLM Oregon/Washington State Office, P.O. Box 2965, Portland, Oregon 97208–2965, 503–952–6155.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714 (1988), it is ordered as follows:

1. The Executive Order dated October 24, 1916, which established Powersite Reserve No. 556, is hereby revoked in its entirety:

Willamette Meridian

T. 13 N., R. 23 E.,
Secs. 2, 11, and 12, all unsurveyed islands lying in the Columbia River.
T. 14 N., R. 23 E.,
Secs. 27, 28, 33, 34, and 35, all unsurveyed islands lying in the Columbia River.

The areas described aggregate approximately 155 acres in Grant and Yakima Counties.

2. The lands are included in Power Project No. 2114 and the Columbia River Improvement Project, and remain withdrawn from operation of the public land laws, including the mining laws. The lands have been and continue to be open to applications and offers under the mineral leasing laws.

Dated: January 10, 1997.

Bob Armstrong,

Assistant Secretary of the Interior.

[FR Doc. 97–1913 Filed 1–24–97; 8:45 am]

BILLING CODE 4310–33–P

[CA–065–06–1430–00, CACA–23033]

Notice of Realty Action; Classification of Public Lands for Recreation and Public Purposes, Kern County, California

AGENCY: Bureau of Land Management

SUMMARY: The following described land has been examined and found suitable for classification for lease and conveyance to the Exotic Feline Breeding Compound under the provisions of the Recreation and Public Purposes Act, as amended (43 U.S.C. 869 *et seq*).

San Bernardino Meridian

T.9S., R.13W.,
Section 14 Lots 6–7 (excluding MS 5254, MS 5210, and MS 5217)

Containing 15.41 acres, more or less.

The Exotic Feline Breeding Compound, a non-profit organization, has applied to lease/acquire the public lands to expand their current facility in order to provide additional habitat and to improve existing habitat. The land will be developed in accordance with the plan of development. The lands are not needed for Federal purposes, and lease or conveyance would be consistent with the California Desert Conservation Act Plan. The lease/patent, when issued, will be subject to the following terms, conditions and reservations:

1. Provisions of the Recreation and Public Purpose Act and applicable regulations of the Secretary of the Interior.

2. A right-of-way to the United States for ditches and canals, pursuant to the Act of August 30, 1890 (43 U.S.C. 945).

3. A reservation of all minerals to the United States, and the right to prospect for, mine, and remove the minerals.

DATES: January 27, 1997 the lands will be segregated from appropriation under the public land laws, including the general mining laws, except for lease or conveyance under the Recreation and Public Purposes Act and leasing under the mineral leasing laws. For a period on or before March 13, 1997, interested persons may submit comments regarding the proposed lease/conveyance or classification of the lands to the Area Manager, Ridgecrest Resource Area, 300 S. Richmond Road, Ridgecrest, California, 93555. Any adverse comments will be reviewed by the State Director. In the absence of any adverse comments, the classification will become effective March 28, 1997.

SUPPLEMENTARY INFORMATION: Detailed information concerning this action is available for review at the Bureau of Land Management, Ridgecrest Resource Area, 300 S. Richmond Road, Ridgecrest, CA 93555.

Lee Delaney,

Area Manager.

[FR Doc. 97–1899 Filed 1–24–97; 8:45 am]

BILLING CODE 4310–40–P

[ID–035–1430–01; IDI–31091]

Notice of Realty Action; Idaho

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Action—Amendment of the Medicine Lodge Resource Management Plan (RMP)/Notice of Realty Action (NORA), Direct Sale of Public Land in Jefferson County, Idaho.

NOTICE: Notice is hereby given that the BLM has amended the Idaho Falls District's Medicine Lodge RMP to allow for direct sale of 46.95 acres of public land containing the Mud Lake Airport to the City of Mud Lake.

SUMMARY: The following described lands have been examined and through the public supported land use planning process have been determined to be suitable for direct sale to the City of Mud Lake pursuant to Section 203 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716).

T. 6 N., R. 34 E., BM
Sec. 18, lots 16, 18, 21, 23, 26;

The purpose of this land sale is to allow the City of Mud Lake to acquire the public land housing the Mud Lake Airport and total management control. Sale of the land would serve important public objectives for the City of Mud Lake.

The land patent, when issued, would contain a reservation to the United States for ditches and canals and would be subject to highway right-of-way BL–049504 to the Idaho Department of Transportation.

SUPPLEMENTARY INFORMATION: Detailed information concerning the conditions of the direct sale can be obtained by contacting Bruce Bash, Realty Specialist, at (208) 524–7521. Upon publication of this notice in the Federal Register, the land described above will be segregated from appropriation under the public land laws, including the mining laws, except for the sale provisions of FLPMA.

PLANNING PROTEST: Any party who participated in the plan amendment and is adversely affected by the amendment may protest this action only as it affects issues submitted for the record during the planning process. The protest shall be in writing and filed with the Director (480), Bureau of Land Management, Resource Planning Team, 1849 ''C'' Street, N.W., Washington, D.C. 20240, within 30 days of publication of this notice.

LAND SALE COMMENTS: For a period of 45 days from the date of publication of this notice in the Federal Register, interested parties may submit comments regarding the land exchange to the Area Manager, Bureau of Land Management, Medicine Lodge Resource Area, 1405 Hollipark Dr., Idaho Falls, Idaho 83401. Objections will be reviewed by the BLM Idaho Falls District Manager who may sustain, vacate, or modify this realty action. In the absence of any planning protests or objections regarding the land sale, this realty action will become the final determination of the Department of the Interior and the planning amendment will be in effect.

Dated: January 17, 1997.

Joe Kraayenbrink,

Area Manager,Medicine Lodge Resource Area.

[FR Doc. 97–1903 Filed 1–24– 97; 8:45 am]

BILLING CODE 4310–GG–P

[UT–040–07–1430–01; UTU–74944]

Notice of Realty Action

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of sale.

SUMMARY: The Bureau of Land Management is proposing to sell, under section 203 of the Federal Land Policy and Management Act of 1976 (FLPMA), public land described as Salt Lake Meridian, T. 34 S., R. 5 W., sec. 30, SE¼ SE¼SE¼NE¼, containing 2.5 acres located in Garfield County, Utah. The sale would be at fair market value as determined by appraisal. The public land, once acquired by the City, will be used for expansion of the city's industrial park.

DATES: Comments must be submitted on or before March 13, 1997. Patent of the land to the City will be issued no sooner than March 28, 1997.

ADDRESSES: All comments concerning this proposed sale should be addressed to the District Manager, Cedar City District, 176 East D.L. Sargent Drive, Cedar City, UT 84720.

FOR FURTHER INFORMATION CONTACT: Craig Zufelt, 176 East D.L. Sargent Dr., Cedar City, UT 84720, (801) 586–2401.

SUPPLEMENTARY INFORMATION: The lands described have been segregated from all forms of appropriation under the public land laws, including the mining laws, pending disposition of this action or on October 24, 1997, whichever occurs first. Only the surface estate will be sold. The patent, when issued, will be made subject to all valid existing rights and will contain a reservation for all minerals to the United States, together with the right to prospect for, mine and remove the minerals. There will also be reserved to the United States a right-of-way for ditches or canals constructed by the authority of the United States. In the absence of timely objections, this proposal shall become the final determination of the Department of the Interior.

Craig K. Zufelt,

Acting District Manager.

[FR Doc. 97–1908 Filed 1–24–97; 8:45 am]

BILLING CODE 4310–DQ–M

[ID–020–1430–01]

Notice of Intent To Prepare a Land Use Plan Amendment

AGENCY: Bureau of Land Management, Department of the Interior.

ACTION: Notice of intent to prepare a land use plan amendment.

SUMMARY: The Snake River Resource Area, Upper Snake River Districts, is proposing to amend the Monument Resource Management Plan to allow the disposal of a 34.9 acre isolated tract of public land in Minidoka County.

DATES: The public, state and local governments, and other Federal agencies are invited to participate in the amendment process. Identification of issues, concerns, or other written comments pertaining to this notice will be accepted until March, 15, 1997.

SUPPLEMENTARY INFORMATION: The proposed plan amendment would allow the transfer into private ownership a 34.9 acre parcel of public land identified as Tract ''A'', of Section 25, Township 8 South, Range 24 East, Boise Meridian. This parcel of land has been subject to unauthorized agriculture and occupancy use for many years. Approximately 8 acres have been farmed and is crossed by a center pivot irrigation system. Approximately 0.34 acres of the parcel have been used for residential purposes including portions of a lawn, shrubs and trees, two driveways, and a horse arena. Settlement for this unauthorized use with the involved individuals has been completed and the uses have been authorized by land use permits granted by the Bureau of Land Management.

The tract is proposed to be disposed of in two parcels to accommodate the residential uses of one individual and the farming use of another individual. The parcels would be sold by direct sale to the adjoining land owners.

Public participation in the amendment process will include publication of this notice in the Federal Register and local newspapers and the sending of this notice to state and local governments, private individuals, and other interested parties. Depending on the amount of public interest, public meetings may be held in the Snake River Resource Area Office, Burley, Idaho.

ADDRESSES: Any comments on this notice should be mailed by close of business on March 15, 1997 to the Bureau of Land Management, Snake River Resource Area, 15 East 200 South, Burley, Idaho 83318.

FOR FURTHER INFORMATION, CONTACT: Karl A. Simonson, Realty Specialist, (208) 677–6640.

Dated: January 16, 1997.

Tom Dyer,

Snake River Area Manager.

[FR Doc. 97–1911 Filed 1–24–97; 8:45 am]

BILLING CODE 4310–GG–P

[AZ–942–07–1420–00]

Arizona State Office; Notice of Filing of Plats of Survey

January 16, 1997.

1. The plats of survey of the following described lands were officially filed in the Arizona State Office, Phoenix, Arizona, on the dates indicated:

A plat, in 3 sheets, representing the dependent resurvey of a portion of the south boundary, and a metes-and-bounds survey of North Maricopa Mountains Wilderness Area Boundary, in Township 4 South, Range 3 West, Gila and Salt River Meridian, Arizona, was approved October 7, 1996, and officially filed October 22, 1996.

A plat representing the dependent resurvey of a portion of the east boundary and a portion of the subdivisional lines, and the metes-and-bounds survey of North Maricopa Mountains Wilderness Area Boundary, in Township 5 South, Range 3 West, Gila and Salt River Meridian, Arizona, was approved October 7, 1996, and officially filed October 22, 1996.

A plat representing the dependent resurvey of the Arizona-New Mexico State Line between the 127 mile corner and the 136 mile corner, Townships 19

and 20 North, Range 31 East, Gila and Salt River Meridian, Arizona, was approved October 16, 1996, and officially filed October 22, 1996.

2. These plats will immediately become the basic records for describing the land for all authorized purposes. These plants have been placed in the open files and are available to the public for information only.

3. All inquiries relating to these lands should be sent to the Arizona State Office, Bureau of Land Management, 222 N. Central Avenue, Phoenix, Arizona 85004.

Dale C. Wilson,

Acting Chief Cadastral Surveyor of Arizona.

[FR Doc. 97–1904 Filed 1–24–97; 8:45 am]

BILLING CODE 4310–32–M

[ID–957–1430–00]

Idaho: Filing of Plats of Survey; Idaho

The plat of the following described land was officially filed in the Idaho State Office, Bureau of Land Management, Boise, Idaho, effective 9:00 a.m. on January 13, 1997.

The plat representing the dependent resurvey of portions of the south boundary, of the subdivisional lines, and the subdivision of section 15, and the survey of lots 2, 3, 4, 5, and 6, T. 2N., R.4W., Boise Meridian, Idaho, Group No. 853, was accepted January 13, 1997.

This survey was executed to meet certain administrative needs of the Bureau of Land Management. All inquiries concerning the survey of the above described land must be sent to the Chief, Cadastral Survey, Idaho State Office, Bureau of Land Management, 1387 S. Vinnell Way, Boise, Idaho, 83709–1657.

Dated: January 13, 1997.

Duane E. Olsen,

Chief Cadastral Surveyor for Idaho.

[FR Doc. 97–1907 Filed 1–24–97; 8:45 am]

BILLING CODE 4310–GG–M

National Park Service

Public Notice

AGENCY: National Park Service, Interior.

SUMMARY: Public notice is hereby given that the National Park Service proposes to award a concession contract authorizing marina and food service facilities and services for the public at Fire Island National Seashore for a period of ten (10) years from date of contract execution.

EFFECTIVE DATE: March 28, 1997.

ADDRESSES: Interested parties should contact National Park Service, Senior Concession Program Manager, Concession Management Division, New England System Support Office, 15 State Street, Boston, MA 02109–3572, to obtain a copy of the prospectus describing the requirements of the proposed contract.

SUPPLEMENTARY INFORMATION: This contract has been determined to be categorically excluded from the procedural provisions of the National Environmental Policy Act and no environmental document will be prepared.

The existing concessioner has performed its obligations to the satisfaction of the Secretary under an existing contract which expired by limitation of time on November 30, 1996, and therefore pursuant to the provisions of Section 5 of the Act of October 9, 1965 (79 Stat. 969; 16 U.S.C. 20), is entitled to be given preference in the renewal of the contract and in the negotiation of a new contract, providing that the existing concessioner submits a responsive offer (a timely offer which meets the terms and conditions of the Prospectus). This means that the contract will be awarded to the party submitting the best offer, provided that if the best offer was not submitted by the existing concessioner, then the existing concessioner will be afforded the opportunity to match the best offer. If the existing concessioner agrees to match the best offer, then the contract will be awarded to the existing concessioner.

If the existing concessioner does not submit a responsive offer, the right of preference in renewal shall be considered to have been waived, and the contract will then be awarded to the party that has submitted the best responsive offer.

The Secretary will consider and evaluate all proposals received as a result of this notice. Any proposal, including that of the existing concessioner, must be received by the Senior Concessions Program Manager, Concession Management Division, not later than the sixtieth (60th) day following publication of this notice to be considered and evaluated.

Dated: December 17, 1996.

Chrysandra L. Walter,

Field Director, Northeast Field Area.

[FR Doc. 97–1873 Filed 1–24–97; 8:45 am]

BILLING CODE 4310–70–M

Notice of Intent to Repatriate Cultural Items in the Possession of the Cibola National Forest, United States Forest Service, Albuquerque, NM

AGENCY: National Park Service, Interior.

ACTION: Notice.

Notice is hereby given under the Native American Graves Protection and Repatriation Act, 25 U.S.C. 3005 (a)(2), of the intent to repatriate cultural items in the possession of the Cibola National Forest, United States Forest Service, Albuquerque, NM, which meets the definition of ''sacred object'' under Section 2 of the Act.

The cultural items consist of 17 prayer sticks of aspen and willow, four corn husk cigarettes, a miniature bow, and a miniature spear.

In February 1987, these items were seized from a private residence by Federal law enforcement officers as part of an Archeological Resources Protection Act case. The items have been identified as being from lands of the Cibola National Forest in west-central New Mexico.

Ethnographic and anthropological sources indicate the items in this collection resemble known Acoma religious objects. Representatives of the Pueblo of Acoma have indicated that these cultural items were left as offerings at a shrine on the Cibola National Forest and have identified these cultural items as sacred objects necessary for the continuing practice of traditional Acoma religion by present-day adherents. Representatives of the Pueblo of Acoma have also stated that once left as offerings, the Acoma religion requires that such cultural items not be disturbed.

Based on the above-mentioned information, officials of the United States Forest Service have determined that, pursuant to 25 U.S.C. 3001 (3)(C), these 23 cultural items are specific ceremonial objects needed by traditional Native American religious leaders for the practice of traditional Native American religions by their present-day adherents. Officials of the United States Forest Service have also determined that, pursuant to 25 U.S.C. 3001 (2), there is a relationship of shared group identity which can be reasonably traced between these items and the Pueblo of Acoma.

This notice has been sent to officials of the Hopi Tribe, the Kaibab Band of Paiute Indians, the Las Vegas Paiute Tribe, the Moapa Band of Paiutes, the Navajo Nation, the Paiute Tribe of Utah, the Pueblo of Acoma, the Pueblo of Jemez, the Pueblo of Zuni, the San Carlos Apache Tribe, and the San Juan

Southern Paiute Tribe, and the Yavapai-Apache Community of Arizona. Representatives of any other Indian tribe that believes itself to be culturally affiliated with these objects should contact Dr. Frank E. Wozniak, NAGPRA Coordinator, Southwestern Region, USDA Forest Service, 517 Gold Ave. SW, Albuquerque, NM 87102; telephone: (505) 842–3238, fax: (505) 842–3800 before February 26, 1997. Repatriation of these objects to the Pueblo of Acoma may begin after that date if no additional claimants come forward.

Dated: January 17, 1997.

Veletta Canouts,

Acting Departmental Consulting Archeologist,

Deputy Manager, Archeology and Ethnography Program.

[FR Doc. 97–1856 Filed 1–24–97; 8:45 am]

BILLING CODE 4310–70–F

Notice of Intent to Repatriate Cultural Items from Arkansas and Oklahoma in the Possession of the Hood Museum of Art, Dartmouth College, Hanover, NH

AGENCY: National Park Service, Interior.

ACTION: Notice.

Notice is hereby given under the Native American Graves Protection and Repatriation Act, 25 U.S.C. 3005 (a)(2), of the intent to repatriate cultural items in the possession of the Hood Museum of Art, Dartmouth College, Hanover, NH, which meets the definition of ''unassociated funerary objects'' under Section 2 of the Act.

The eight items—seven copper beads and a polished clear quartz celt—were purchased by Mr. Glover Street Hastings III, a private collector. Mr. Hastings' daughter, Carlena H. Redfield, donated the collection to Dartmouth College in 1981. Mr. Hastings' donation information indicates the celt came from a Caddo grave in the Ouachita River Valley, Montgomery County, AR. Mr. Hastings' information indicates the seven copper beads came from Spiro Mound, Sequoyah County, OK.

Celts and copper beads are consistent with the types of funerary objects used in traditional Caddoan burial practices. Spiro Mound is considered a prepared physical location into which, as part of the death rite or ceremony of a culture, individual human remains were deposited. Both Spiro Mound, Sequoyah County, OK and the Montgomery County, AR, are located within the area archeologically and ethnographically documented as being occupied by ancestral Caddoan populations for the last 2,000 years.

Officials of the Hood Museum of Art have determined that, pursuant to 25 U.S.C. 3001 (3)(B), these eight cultural items are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony and are believed, by a preponderance of the evidence, to have been removed from a specific burial site of an Native American individual. Officials of the Hood Museum of Art have also determined that, pursuant to 25 U.S.C. 3001(2), there is a relationship of shared group identity which can be reasonably traced between these items and the Caddo Indian Tribe of Oklahoma.

This notice has been sent to officials of the Caddo Indian Tribe of Oklahoma. Representatives of any other Indian tribe that believes itself to be culturally affiliated with these objects should contact Mr. Kellen G. Haak, Registrar and Repatriation Coordinator, Hood Museum of Art, Dartmouth College, Hanover, NH 03755, telephone (603) 646–3109 before February 26, 1997. Repatriation of these objects to the Caddo Indian Tribe of Oklahoma may begin after that date if no additional claimants come forward.

Dated: January 17, 1997.

Veletta Canouts,

Acting Departmental Consulting Archeologist,

Deputy Manager, Archeology and Ethngraphy Program.

[FR Doc. 97–1855 Filed 1–24–97; 8:45 am]

BILLING CODE 4310–70–F

Notice of Intent to Repatriate Cultural Items in the Possession of the Mesa Southwest Museum, Mesa, AZ

AGENCY: National Park Service, Interior

ACTION: Notice.

Notice is hereby given under the Native American Graves Protection and Repatriation Act, 25 U.S.C. 3005 (a)(2), of the intent to repatriate cultural items in the possession of the Mesa Southwest Museum, Mesa, AZ, which meet the definition of ''object of cultural patrimony'' under Section 2 of the Act.

The items are Western Apache *Gaan* material consisting of one *Dilzini Gaan* mask, one *Dilzini Gaan* wooden headdress, one *Dilzini Gaan* standard with four flat cross bars, and one set of 18 pieces of a *Dilzini Gaan* wooden headdress. All these items are made of painted wood and/or cloth and were acquired by the Museum in 1979, 1985, and 1991.

The cultural affiliation of the first three items is clearly Western Apache as documented in museum records and verified by the Camp Verde Yavapai-Apache Tribe, the Fort McDowell Mohave-Apache Community, the Tonto Apache Tribe, the San Carlos Apache Tribe, and the White Mountain Apache Tribe. The fourth item, one set of 18 pieces of a *Dilzini Gaan* wooden headdress, was collected near Sanders, AZ, and it has been clearly identified as Western Apache by the Camp Verde Yavapai-Apache Tribe, the Fort McDowell Mohave-Apache Community, the Tonto Apache Tribe, the San Carlos Apache Tribe, and the White Mountain Apache Tribe. The San Carlos Apache Tribe and the White Mountain Apache Tribe have documented that these items have ongoing traditional and cultural importance to the tribes and could not have been conveyed by any individual tribal member.

Based on the above mentioned information, officials of the Mesa Southwest Museum have determined that, pursuant to 25 U.S.C. 3001 (3)(D), these four cultural items have ongoing historical, traditional, and cultural importance central to the San Carlos Apache Tribe and White Mountain Apache Tribe, and could not have been alienated, appropriated, or conveyed by any individual. Mesa Southwest Museum officials have also determined that, pursuant to 25 U.S.C. 3001 (2), there is a relationship of shared group identity which can be reasonably traced between these items and the San Carlos Apache Tribe and White Mountain Apache Tribe.

This notice has been sent to officials of the San Carlos Apache Tribe, the Camp Verde Yavapai-Apache Community, the Fort McDowell Mohave-Apache Community, the Tonto Apache Tribe, and the White Mountain Apache Tribe. Representatives of any other Indian tribe that believes itself to be culturally affiliated with these objects should contact Tray C. Mead, Museum Administrator, Mesa Southwest Museum, 53 N. Macdonald, Mesa, AZ 85201, or telephone Dr. Susan Shaffer Nahmias, NAGPRA/Tribal Liaison at (602) 644–2563 before February 26, 1997. Repatriation of these objects to the San Carlos Apache Tribe and White Mountain Apache Tribe may

begin after that date if no additional claimants come forward.

Dated: January 17, 1997.

Veletta Canouts,

Acting Departmental Consulting Archeologist,

Deputy Manager, Archeology and Ethnography Program.

[FR Doc. 97–1854 Filed 1–24–97; 8:45 am]

BILLING CODE 4310–70–F

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Overseas Private Investment Corporation

Submission for OMB Review; Comment Request

AGENCY: Overseas Private Investment Corporation, IDCA.

ACTION: Request for comments.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35), agencies are required to publish a Notice in the Federal Register notifying the public that the Agency is preparing an information collection request for OMB review and approval and to request public review and comment on the submission. Comments are being solicited on the need for the information, its practical utility, the accuracy of the Agency's burden estimate, and on ways to minimize the reporting burden, including automated collection techniques and uses of other forms of technology. The proposed form under review is summarized below.

DATES: Comments must be receive on or before March 28, 1997.

ADDRESSES: Copies of the subject form and the request for review prepared for submission to OMB may be obtained from the Agency Submitting Officer. Comments on the form should be submitted to the Agency Submitting Officer.

FOR FURTHER INFORMATION CONTACT:

OPIC Agency Submitting Officer: Lena Paulsen, Manager, Information Center, Overseas Private Investment Corporation, 1100 New York Avenue, NW., Washington, DC 20527; 202/336–8565.

Summary of Form Under Review

Type of Request: New Collection.

Title: Self Monitoring Questionnaire for Investment Fund Projects.

Form Number: OPIC–217.

Frequency of Use: Annually.

Type of Respondents: Business or other individuals.

Standard Industrial Classification Codes: All.

Description of Affected Public: U.S. companies assisted by OPIC.

Reporting Hours: 3 hours per form.

Number of Responses: 130 annually.

Federal Cost: $3,900 annually.

Authority for Information Collection: Sections 231(k)2, of the Foreign Assistance Act of 1961, as amended.

Abstract (Needs and Uses): The questionnaire is completed by OPIC-assisted investors annually. The questionnaire allows OPIC's assessment of effects of OPIC-assisted fund projects on the U.S. economy and employment, as well as on the environment and economic development abroad.

Dated: January 21, 1997.

James R. Offutt,

Assistant General Counsel/Department of Legal Affairs.

[FR Doc. 97–1822 Filed 1–24–97; 8:45 am]

BILLING CODE 3210–01–M

Submission for OMB Review; Comment Request

AGENCY: Overseas Private Investment Corporation, IDCA.

ACTION: Request for comments.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35), agencies are required to publish a Notice in the Federal Register notifying the public that the Agency is preparing an information collection request for OMB review and approval and to request public review and comment on the submission. Comments are being solicited on the need for the information, its practical utility, the accuracy of the Agency's burden estimate, and on ways to minimize the reporting burden, including automated collection techniques and uses of other forms of technology. The proposed form under review is summarized below.

DATES: Comments must be received on or before March 28, 1997.

ADDRESSES: Copies of the subject form and the request for review prepared for submission to OMB may be obtained from the Agency Submitting Officer. Comments on the form should be submitted to the Agency Submitting Officer.

FOR FURTHER INFORMATION CONTACT:

OPIC Agency Submitting Officer: Lena Paulsen, Manager, Information Center, Overseas Private Investment Corporation, 1100 New York Avenue, N.W., Washington, D.C. 20527; 202/336–8565.

Summary of Form Under Review

Type of Request: Revised form.

Title: Self Monitoring Questionnaire for Insurance & Finance Projects.

Form Number: OPIC–162.

Frequency of Use: Annually.

Type of Respondents: Business or other individuals.

Standard Industrial Classification Codes: All.

Description of Affected Public: U.S. companies assisted by OPIC.

Reporting Hours: 3 hours per form.

Number of Responses: 200 annually.

Federal Cost: 6,000 annually.

Authority for Information Collection: Sections 231(k)2, of the Foreign Assistance Act of 1961, as amended.

Abstract (Needs and Uses): The questionnaire is completed by OPIC-assisted investors annually. The questionnaire allows OPIC's assessment of effects of OPIC-assisted projects on the U.S. economy and employment, as well as on the environment and economic development abroad.

Dated: January 21, 1997.

James R. Offutt,

Assistant General Counsel/Department of Legal Affairs.

[FR Doc. 97–1823 Filed 1–24–97; 8:45 am]

BILLING CODE 3210–01–M

DEPARTMENT OF JUSTICE

Executive Office for Immigration Review; Agency Information Collection Activities: New Collection; Comment Request

ACTION: Notice of information collection under review; application for cancellation of removal.

Office of Management and Budget approval is being sought for the information collection listed below. This proposed information collection was previously published in the Federal Register on November 22, 1996 at 61 FR 59458, allowing for a 60-day comment period.

The purpose of this notice is to allow an additional 30 days for public comments until February 26, 1997.

Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the Office of Management and Budget, Office of Regulatory Affairs, Attention: Department of Justice Desk Office, Washington, DC 20530. Additionally, comments may be submitted to OMB via facsimile to (202) 395–7285. Comments may also be submitted to the Department of Justice (DOJ), Justice Management Division, Information Management and Security Staff,

Attention: Department Clearance Officer, Suite 850, 1001 G Street, NW, Washington, DC 20530. Additionally, comments may be submitted to DOJ via facsimile to (202) 514–1590.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following four points:

(1) evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) enhance the quality, utility, and clarity of the information to be collected; and

(4) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g. permitting electronic submission of responses.

Overview of this information collection:

(1) Type of Information Collection: New Collection.

(2) Title of the Form/Collection: Application for Cancellation of Removal.

(3) Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection: Form EOIR–42, Executive Office for Immigration Review, U.S. Department of Justice.

(4) Affected public who will be asked to respond, as well as a brief abstract: Individual aliens determined to be removable from the United States. This information collection is necessary to determine the statutory eligibility of individual aliens who have been determined to be removable from the United States for cancellation of their removal, as well as to provide information relevant to a favorable exercise of discretion in their case.

(5) An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond: 11,400 responses per year at 5 hours, 45 minutes per response.

(6) An estimate of the total public burden (in hours) associated with the collection: 65,550 annual burden hours.

If additional information is required contact: Mr. Robert B. Briggs, Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, Suite 850, Washington Center, 1001 G Street, NW., Washington, DC 20530.

Dated: January 21, 1997.

Robert B. Briggs,

Clearance Officer, U.S. Department of Justice.

[FR Doc. 97–1848 Filed 1–24–97; 8:45 am]

BILLING CODE 1531–26–M

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Emergency Review; Comment Request

AGENCY: Employment and Training Administration, Labor.

ACTION: Supplemental information.

SUMMARY: In notice document 97–1226 beginning on page 2689 in the issue of Friday, January 17, 1997, and in notice document 97–1228 beginning on page 2689, the supplemental information is being provided.

On January 14, 1997, the Department of Labor submitted an emergency processing public information collection request (ICR) to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). As indicated, a copy of the applicable supporting documentation, may be obtained by calling the Department of Labor Acting Departmental Clearance Officer, Theresa M. O'Malley ((202) 219–5096, x. 143). However, to assist persons interested in reviewing the documents contained in these emergency processing public information collection requests, the Department of Labor is publishing the text of the two draft Training and Employment Guidance Letters.

Dated: January 21, 1997.

Theresa M. O'Malley,

Departmental Clearance Officer.

Directive: Training and Employment Guidance Letter No.

To: All State JTPA Liaisons, All State Worker Adjustment Liaisons, All State Employment Security Agencies, All One-stop Career Center System Leads

From: Barbara Ann Farmer, Administrator for Regional Management

Subject: Workforce Flexibility (Work-Flex) Partnership Demonstration Program

1. *Purpose.* To announce the request for applications from States for the Workforce Flexibility (Work-Flex) Partnership Demonstration Program.

2. *Background.* The 1997 Department of Labor's Appropriations Act (Public Law 104–208) authorizes the Workforce Flexibility (Work-Flex) Partnership Demonstration Program. This directive transmits the excerpts from the draft Federal Register Notice describing the process for submittal of applications.

The appropriations legislation provides that the Secretary of Labor may authorize Work-Flex demonstration program for provision of workforce employment and training activities in ''* * * not more than six States, of which at least three States shall each have populations not in excess of 3,500,000 * * *''. The Work-Flex waiver may be for a period of up to five years. Under this provision, the Secretary would authorize a State ''to waive any statutory or regulatory requirement applicable to service delivery areas or substate areas within the State under titles I–III of the Job Training Partnership Act, with certain exceptions and ''any of the statutory or regulatory requirements of sections 8–10 of the Wagner-Peyser Act''.

The legislation authorizes the granting of the Work-flex waiver to a state pursuant to a plan submitted by the State and approved by the Secretary. Preference is to be given to States that have been designated as Ed-Flex partnership States under section 311(e) of Public Law 103–227. Excerpts from the draft Federal Register Notice which announces this application process is attached.

Unlike the legislative provisions for Ed-Flex, the legislative report language for Work-flex does not permit the Secretary of Labor to consider State waiver requests. Instead, such authority is restricted to the general waivers provisions. To address this deficiency, States may submit both a Work-flex application and a general waiver request at the same time. While there are differences in time coverage and exceptions for the two sets of waiver authorities, a combined request would permit a State to obtain waivers for both the State level and the service delivery area/substate level for a minimum of one year. We are entertaining joint submissions to permit streamlined submission and to facilitate the objectives of the overall waiver authority. If the general waiver authority is continued, then subsequent approvals of State waiver requests could be continued.

3. *Process for Submitting Applications.* Applications will be accepted by the Department until March 28, 1997. After that date, proposals will

be accepted only if fewer than six States apply or fewer than three with a population under 3,500,000 or fewer than six applications received by that date are approved by the Secretary.

4. *Action Required.* States which are interested in obtaining authority to grant waivers under the legislative authority provided must follow the requirements contained in the attached excerpts from the draft Federal Register Notice.

5. *Inquiries.* Questions regarding this directive should be referred to your Employment and Training Administration regional office.

6. *Attachment.* Excerpts from the draft Federal Register Notice.

Background

The Work-Flex program is a demonstration program under which the Secretary may grant six States the authority to waive certain statutory may grant six States the authority to waive certain statutory or regulatory requirements applicable to service delivery areas or substate areas within the State under titles I–III of the Job Training Partnership Act (JTPA) or sections 8–10 of the Wagner-Peyser Act (W–P Act). The legislation also contains certain provisions that may not be waived under the JTPA and the W–P Act. The types of these non-waivable provisions and the specific provisions are discussed below.

The granting of authority to issue waivers is intended to provide flexibility to States to enhance the development of a comprehensive work force development system and to improve the quality and quantity of outcomes for persons served. The legislation provides that at least three of the six States shall have a population not in excess of 3,500,000 and that preference be given to States designated under Ed-Flex. The proposal must provide a description of the process by which service delivery areas and substate areas may apply for and have waivers approved, the requirements of JTPA and the W–P Act to be waived, the outcomes to be achieved, and the measures to be taken to ensure appropriate accountability for Federal funds.

The Department is very interested in working with States within the statutory authority to make improvements in the work force delivery system. To this end, the Department wants the States to know it will actively consider applications which will assist the State and its local service delivery structure in implementing structure work force delivery system improvements. The Department of Labor's guiding principles for reform of the job training systems include:

- Individual Opportunity and Customer Choice. Empowering participants who need employment and training services with the resources and information needed to make good choices.
- Leaner Government. Replacing separate programs with streamlined systems for youth and adults, organized around the principles espoused by the School-to-Work and One-Stop concepts.
- Greater Accountability. Ensuring a clear focus on results, not process, through mutually agreed upon improved performance outcomes.
- State and Local Flexibility. Providing States, local communities and training systems with the freedom to tailor programs to meet real, locally determined needs.
- Strong Private Sector Roles. Ensuring that business, labor and community organizations are full partners in systems design and quality assurance.

Finally, the Department wishes to remind the States of the importance, especially within the School-to-Work framework, of providing work opportunities, especially during the summer months to disadvantaged youth.

Application Requirements and Criteria

1. *Who may apply and when may applications be submitted?* Any State may apply for designation as a Work-Flex State. As required under the legislation and as discussed below, preference will be given to States designated as Ed-Flex States. Initially, applications will be received until March 28, 1997. Since the Secretary may delegate waiver authority to only six States, applications will be accepted after that date only if fewer than six States apply, or if fewer than three States apply with a population under 3,500,000 or if fewer than six States are approved for designation as Work-Flex States.

2. *What Information should be included in a State's Work-Flex proposal?* To be considered for designation as a Work-Flex State, the Governor, or agency administrator with jurisdiction over both the JTPA, titles I–III, and the WPA agency must submit an application to the Secretary. This application must include the following:

a. *Plan.* A plan for the provision of workforce employment and training activities for the State.

b. *JTPA Requirements.* A description of the process by which service delivery areas and substate areas may apply for and have waivers approved, including the criteria for approval and examples of the waivers which will be considered for approval; and

c. *W–P Act Requirements.* A description of the specific requirements in Sections 8, 9 and 10 of the W–P Act and applicable regulations to be waived.

d. *Specific Elements to be Addressed.* To be responsive to the above, the application must contain a specific description of the process and requirements for JTPA and W–P Act waivers (as appropriate), including:

(1) Identification of the State official who would have authority to grant requested waivers, including documentation that the State has granted the official such authority;

(2) Requirements for application for a waiver by service delivery areas and substate areas;

(3) Identification of the JTPA provision(s) for which the waiver(s) will likely be requested (either specific, if known, or examples);

(4) Description of the criteria for approval of waivers;

(5) Process for providing an opportunity for public review and comment;

(6) Requirement(s) for identification of improvement in outcomes to be expected as the result of granting a waiver;

(7) Measures to be taken to ensure the appropriate accountability for federal funds;

(8) Procedures that the State will use to monitor and evaluate the implementation of waivers by local areas, including the outcomes to be achieved;

(9) A statement that there are no state legislative, regulatory or other impediments to administration of the waiver authority sought; and

(10) Assurance that the state has the capacity to administer the waiver system.

As provided in the legislation, certain provisions are not subject to waiver under Work-flex. For the JTPA, these include requirements relating to wage and labor standards, grievances procedures, judicial review, nondiscrimination, allotment of funds and eligibility. Also, since waiver authority must be requested by and granted to service delivery areas or substate areas, state responsibilities or programs operated under statewide authority are not subject to waiver. For example, this includes designation of service delivery areas or substate areas, the state planning process, the State Education Coordination and grants under section 123, the Services to Older Individuals under section 204(d), the Title III funds reserved for state

activities (Governors' Reserve) under section 302(c) and grants awarded to States with Title III National Reserve Account (NRA) funds. *Note:* Some provisions (such as certain States responsibilities) not subject to waiver under the Work-flex authority may be eligible for waiver under the other new statutory or regulatory waiver authority included in the Appropriations Act. For example, a State may apply for waivers for State based programs. States must apply separately for such waivers.

For the W–P Act, only the requirements of sections 8–10, which relate to the development, review and approval of State plans, recordkeeping and reporting are waiverable. The law also specifically excludes from waivers any such requirements relating to provision of services to unemployment insurance claimants and veterans and to universal access to basic labor exchange services without cost to job seekers.

c. *Public Consultation and Comment Process.* The Department expects the State to involve the local elected officials, the private industry councils, and community-based organizations and other stakeholders in the process when developing the application. Consistent with the general waiver request, the State must provide interested parties an opportunity to review and comment on the proposed application. At a minimum, the following groups must be afforded the opportunity to review and comment on the proposed application; (1) The State Job Training Coordinating Council; (2) each house of the State legislature; (3) local elected officials and Private Industry Councils; (4) appropriate local education and other public and non-profit agencies in the service delivery areas; and (5) labor organizations in the area which represent employees having the skills in which training is proposed. Also, the proposed application must be made reasonably available to the general public through such means as public hearings and local news facilities.

The Work-Flex authority is intended to provide States with the ability to enhance the development of a comprehensive workforce development system, including implementation of the one-stop Career system and the School-to-Work system. Another area of importance is the area of improving both the quality and quantity of outcomes of individuals served. Both of these will be of substantial importance in reviewing of proposals requesting the granting of the Secretary's authority for issuing waivers under Work-flex.

Criteria for Evaluation of Work-Flex Applications

Criteria for evaluation of Work-Flex proposals include:

1. *Plan and Outcomes.* The extent to which the authority sought will result in:

a. Improving the outcomes to persons served, and

b. The enhancing implementation of a comprehensive workforce development system in one or more areas.

The extent to which the authority sought will enhance the implementation of the One-Stop Career Center system and/or the School-to-Work System will be major factors in the evaluation of proposals.

2. *Responsiveness.* The extent to which the application meets the requirements of the legislation and this Notice for submission of an application. This includes the quality of the process for reviewing and approving local applications for waivers and for documenting and monitoring the results of waivers.

3. *Accountability of Funds.* Measures to be taken to ensure the accountability of federal funds, including monitoring, evaluation and reports.

4. *Preference for Ed-Flex States—Tie-Breaking Procedures.* Proposals will be evaluated based on the quality and specificity of the proposal. In the event that proposals submitted are judged to be substantially equal, preference will be given to States previously designated as Ed-Flex States.

5. *Public Comments.* All comments received on the application should be forwarded with the application to the Department of Labor.

Conditions

1. *Federal Review of Work-Flex Waivers Granted.* In applying for waivers, States must recognize that the impact of the use of Work-Flex authority to achieve goals and outcomes specified in the State proposal will be reviewed annually against stated goals. The Department reserves the right to withdraw the authority to issue waivers if: Goals specified are not met for two consecutive years; use of the waiver authority is abused; or the state grants waivers for non-waivable provisions.

2. *Duration and Coverage.* Work-flex authority may be granted for up to five years. States granted such authority may approve waivers requested from all service delivery areas or substate areas or selected areas.

3. *Notification of the Granting of Waivers.* States will be required to submit reports on a quarterly basis concerning the administration of the waiver authority and on the accomplishments under this authority. States shall notify the appropriate ETA Regional Administrator of the granting of a waiver(s) each quarter. This notification shall include the area for which the waiver is granted, the provision of legislation and/or regulations waived and the duration of the waiver.

4. *Federal Assistance.* States are encouraged to regularly consult with the ETA Regional office regarding any matters in which the discussion and assistance in the Work-Flex administration would be useful. Because Work-Flex is an important demonstration program with implications for future job training and employment service delivery, it is important that Work-flex be tested to ensure that appropriate accountability can be maintained. ETA regional staff will be responsible for providing information on Work-flex administration and implementation. States granted Work-flex authority will be required to work closely—on an ongoing basis—with Regional Office staff so that both the federal and State partners are fully informed on the status and issues under Work-flex. States may be asked to participate with ETA staff in designing and conducting an evaluation of the effectiveness of Work-flex.

Directive: Training and Employment Guidance Letter No.

To:
All JTPA State Liaisons
All Wagner-Peyser Administering Agencies
All State Worker, Readjustment Liaisons
All One-Stop Career Center System Leads

From: Barbara Ann Farmer, Administrator for Regional Management

Subject: Guidelines for Implementing Job Training System Improvements through Waivers of the Job Training Partnership Act (JTPA) and the Wagner-Peyser Act

1. *Purpose.* To transmit guidance for the development and submission of a request for waiver of JTPA and Wagner-Peyser Act general statutory/regulatory provisions.

2. *Reference.* The Department of Labor Appropriations Act of 1997 (Pub. L. 104–208 sections 101(e) and 105); Training Employment and Information Notice No. 11–96, Statutory and Regulatory Waiver Authority of the JTPA and the Wagner-Peyser Act.

3. *Background.* The Department of labor Appropriations Act for 1997, (Pub. L. 104–208) contains three provisions relating to waivers:

a. General Statutory/Regulatory Waiver Authority for JTPA & Wagner-Peyser;

b. The Work-Flex Partnership Demonstration Program; and

c. Continuation of the existing waiver authority for the State of Oregon.

These guidelines do not address the continuation of the Oregon waiver provision or the Work-Flex Partnership Demonstration Program. A separate TEGL will be issued on Work-Flex.

The Statutory/Regulatory Waiver provision gives the Secretary authority to grant both statutory and regulatory waivers of JTPA (titles I–III) and Wagner-Peyser Act (Sections 8–10) and contains ''exclusions,'' i.e., provisions that may not be waived. The general waiver authority is for a period of one program year beginning July 1, 1997 and provides:

- Increased flexibility to States and local areas in implementing reforms to the workforce development system in exchange for accountability for results including improved performance.
- An important opportunity for States and localities to begin or continue to organize services into a workforce development system through the concepts of One-Stop Career Centers and School-to-Work systems which enhance the training and employment opportunities available to adults and youths.

4. *Principles for Further Reforms of the Job Training System*. The Department of Labor's (DOL) guiding principles for providing flexibility to the job training systems include:

- Individual Opportunity and Customer Choice. Empowering participants who need employment and training services with the resources and information needed to make good choices.
- Leaner Government. Replacing separate programs with streamlined systems for youth and adults, organized around the School-to-Work and One-Stop concepts.
- Greater Accountability. Ensuring a clear focus on results, not process, through mutually agreed upon improved performance outcomes.
- State and Local Flexibility. Providing States, local communities and training systems with the freedom to tailor programs to meet real, locally determined needs.
- Strong Private Sector Roles. Ensuring that business, labor and community organizations are full partners in systems design and quality assurance.

The employment and training community has been provided with new authority to build a Workforce Development System. The Department believes that effective use of the authority will demonstrate Federal, State and local commitment to meeting the needs of our joint customers.

5. *Statutory and/or Regulatory Requirements Covered by the Waiver Authority.* The statutory and regulatory waiver authority apply to titles I–III of the Job Training Partnership Act and to sections 8–10 of the Wagner-Peyser Act.

Exclusions. Under the waiver provisions in the 1997 Appropriations Act the following JTPA provisions may not be waived.

a. Wage and labor standards;

b. Worker rights, participation and protection;

c. Grievance procedures and judicial review;

d. Nondiscrimination;

e. Allocation of funds to local areas;

f. Eligibility;

g. Review and approval of plans;

h. Establishment and functions of service delivery areas and private industry councils; and

i. The basic purposes of the act.

Requirements under the Wagner-Peyser Act relating to the following may not be waived:

a. Services to unemployed insurance claimants and veterans;

b. Universal access to basic labor exchange services without cost to job seekers.

The Department is very interested in working with States within the statutory authority to make improvements in the workforce delivery system. To this end, the Department wants the States to know that it will actively consider specific requests for waivers to remove programmatic and administrative barriers that will result in improved services to individuals, that will assist the State and its local service delivery structure in implementing workforce delivery system improvements, or that will remove requirements, either program or administrative, that do not appear to add value to the organization or delivery of quality services. Regional offices will work with States regarding specific provisions of the JTPA that can or cannot be waived.

The Department cannot waive other legislation which extends the authority provided in Public Law 104–208, other regulations, or Office of Management and Budget Circulars which apply to the State employment security agencies. Therefore, should a request be received for waivers which extend beyond the existing authority, it will not be granted. In a similar manner, the Department cannot entertain requests for retroactive changes.

6. *Policy*. In developing waiver requests, States should take into consideration that the Department will not entertain the granting of waivers which result in the commingling of funds or which undermine accountability, as discussed below. While, in addition to the exclusions set forth in section 5 of this TEGL, there will be other policy considerations that will impact the Department's decision on granting waivers, the Department believes the areas identified in this section to be significant enough to cite in this guidance.

a. *Prohibition on Commingling of Funds.* One of the purposes that could be served with the waiver authority is to make programs almost identical (or seamless) from the participant's perspective. For example, a State or SDA could request that the program design requirements for titles II–A and III be uniform. However, it also should be noted that the waiver provisions do not authorize the commingling of funds from separate appropriations. General appropriations law (31 U.S.C. 1301(a)) requires that appropriations be applied only to the objects for which the appropriations were made unless the law otherwise provides. In this case, the waiver provisions do not provide specific authority to merge (as opposed to transfer) program funds. In fact, since eligibility is not waivable, it is clear that, for example, funds appropriated to provide assistance to dislocated workers under title III would have to be expended for that purpose, even though the particular requirements relating to the form of such assistance could be waived. Therefore, while the Department is committed to assisting States and SDAs in minimizing accounting and reporting burdens, the waiver authority does not permit the Department to relieve these entities from the responsibility of assuring that each appropriation is only expended for its intended purpose. Thus, while as noted above, the waiver authority could be used to make the program design requirements identical for titles II–A and III, the funds for the two programs would still have to be accounted for separately.

b. *Disadvantaged Youth*. The Department wishes to remind the States of the importance of serving economically disadvantaged youth during the summer months. Given the transfer provisions, commingling of funds does not present an issue between the title II–B and title II–C programs. However, the Department emphasizes the importance maintaining a summer component to serve economically disadvantaged youth during the summer months.

c. *Accountability.* To ensure programmatic and fiscal integrity, it is extremely important that there be both adequate oversight and complete reporting. Reporting must be sufficient to provide a record of individual need, the programmatic and financial outcomes achieved and the resultant indication of success and improvement. Monitoring is key to ensuring that the goals and objectives of both the program and any waivers granted will be achieved. While the Department may entertain waiver requests that pertain to reporting, it will not approve any such request that undermines the ability to account to the Congress for fundamental programmatic and financial outcomes or the ability to make basic comparisons in the performance among States. Also, the Department expects that State waiver requests will include plans to monitor performance under the waiver(s) to assure that the anticipated goals and objectives of the request(s) will be achieved.

7. *Waiver Elements.* Submission of waiver requests are voluntary. In the event that a State desires to seek a waiver the appropriations language requires that any such waiver request include:

a. Memorandum of Understanding (MOU). The MOU is between the Secretary and the State (Governor) and among other things, requires the State to ''meet agreed upon outcomes and implement other appropriate measures to ensure accountability.'' The MOU will represent the agreement between the Secretary and the State vis a vis the waiver and constitute a modification to the Governor/Secretary Agreement or the ES Master Agreement as appropriate; and

b. Waiver Plan. The Appropriations Act requires the State to provide a minimum amount of information regarding the waiver requested (see Item 9.b. below). The ''waiver plan'' is the State's request to waive certain statutory or regulatory requirements. The ''waiver plan'' will be treated as a modification to the State's approved Governor's Coordination and Special Services Plan (GCSSP) required by section 121 of JTPA, or the State's Employment and Training Assistance for Dislocated Workers Biennial Plan, or the Wagner-Peyser Plans, whichever is applicable.

8. *Duration and Applicability of Waiver.* The waivers are for one year, starting on July 1, 1997, through June 30, 1998 and will apply to funds available for expenditure in program year 1997. This includes available funds from PY 1995, 1996 and 1997. While the ETA's statutory/regulatory waiver authority is limited to one year, it is anticipated that if the authority is extended by the Congress and the State has used its authority prudently, then the waivers would be continued as has been the case in other similar instances.

9. *Waiver Plan Submission.*

a. Development of Waiver Request. *The Employment and Training Administration (ETA) Regional Offices will be responsible for providing guidance and assistance to the States as they are developing their waiver requests, answering questions about the ETA waiver policy and advising the Assistant Secretary regarding approval of the waiver request(s).* It is expected that the Regional Offices will have a continuing dialogue with their States during the developmental stages of waiver requests. The Regional Offices are available to review and provide comments on draft proposals and provide assistance in preparation of the waiver plan submission.

The Department intends that the process for development of waivers will be in a partnership with the State. To this end, States are invited to engage Regional Offices in the development of their waivers. The ETA Regional Administrators will make themselves and their appropriate staff available to consult with States and provide technical assistance as necessary. Upon completion of the waiver request, the States will submit two copies of their waiver request to the appropriate Regional Administrator.

b. Minimum Requirements. The statute requires the Secretary to make a determination of how a State's request to waive certain statutory and regulatory requirements would remove impediments and improve the State's or local service delivery areas's ability to achieve its goals. It also requires the State to include a summary description of the programmatic or administrative goals to be achieved in order to overcome the barrier.

The Governor must provide at least the minimum information indicated below in order for ETA to make an informed decision on whether to approve the requested waiver. Where documentation (e.g. statistical information, reports, focus groups, customer surveys) is available, it should be provided to corroborate the statements made in the waiver request. In the absence of such data the State is expected to provide a substantive discussion and examples of barriers and proposed solutions which support the proposed removal of the requirements.

(1) State and Local Goals. An introductory statement on the State's workforce development system that the State is attempting to build and how the waivers relate to that broader vision, including the accountability framework. The goals provided should take into consideration the principles articulated above.

(2) Summary of Waiver Request(s). A matrix of the specific waiver(s) requested (including the legislative and/or regulatory citations); the barrier which the request addresses; and the outcome that will be achieved by the granting of the waiver. A description of how similar State requirements would be waived.

(3) Barriers/Requirements to be Waived. A summary description of the programmatic or administrative goals to be achieved in order to overcome the barriers and the individual waivers requested. For each waiver requested, include a description of the specific barrier which is preventing the achievement of the goals and an illustration of the barrier; the specific statutory/regulatory requirement to be waived; and a description of the expected benefit of the waiver.

(4) Impact of Waivers/Outcomes and Performance Targets. Description of performance outcomes and other improvements that are the goals of the waiver request. Describe the anticipated outcomes and/or performance improvements. Include qualitative and/or quantitative outcomes to be achieved. Specify how success and/or progress on outcomes will be determined.

(5) State and Local Service Delivery Areas Actions Taken to Remove Barriers. Specific actions taken or to be taken by the State or local service delivery areas to remove state and local barriers (e.g., policies, guidelines, rules and regulations) should also be addressed.

(6) Comments Process. Description of the consultation process within the State, as well as the process for review and comments on the State's waiver request.

(7) Monitoring. Description of the process the State will use to monitor the implementation of the waiver. Specify how the State will evaluate progress and continuous improvement of the approved waiver and the corresponding programmatic and operating systems, i.e., reports and analysis. Specify how outcomes/progress will be reported to DOL and how the integrity of public funds will be ensured.

c. *Public Consultation and Comment Process.* The Department expects the State to involve the local elected officials, PICs, community-based organizations and other stakeholders in the process when developing the plan which accompanies the waiver application. Consistent with the general

waiver request, the State must provide interested parties an opportunity to review and comment on the proposed waiver. At a minimum, the law requires that the following groups be afforded the opportunity to review and comment on the proposed waiver request: (1) The State Job Training Coordinating Council; (2) each house of the State legislature; (3) local elected officials and Private Industry Councils; (4) appropriate local educational and other public and private non-profit agencies in the service delivery areas; and (5) labor organizations in the area which represent employees having the skills in which training is proposed. (NOTE: In the case of a waiver request concerning Title III, the State is expected to consult with labor organizations representing workers to be trained.)

Also, the proposed plan must be made reasonably available to the general public through such means as public hearings and local news media. All comments received on the waiver request should be forwarded with the waiver request to the Department of Labor.

d. *Timeframe for Response.* The Department will make every effort to act upon proposals by July 1, 1997, if they are received by April 30. In general, the Department intends to respond to most waiver requests within 60 days from the date of receipt. Each wavier request will be evaluated on its own merits, where necessary, the Department may seek further discussions or negotiations on a waiver request either with regard to changing certain aspects of the request or with regard to the quality of the proposed improvements or outcomes. In order to provide a prompt response, the Department may respond with a partial approval in those instances where a request contains multiple parts and further information or clarification is required on one or more parts of the request. In the spirit of a continuing partnership to improve the workforce development system, the Department recognizes that the need for additional waivers may become apparent to the State during the implementation of its plan. Therefore, States may submit a request for an additional waiver as the need arises, following the process described in this TEGL.

10. *Impact of New Statutory/ Regulatory Waiver Authority on Current Regulatory Waiver Authority Promulgated at 20 CFR 627.210:*

As indicated earlier in this TEGL, DOL's 1997 Appropriations Act provided authority for the Secretary to grant waivers, within limits, of statutory and regulatory requirements for titles I–III of the JTPA and for Sections 8–10 of the Wagner-Peyser Act. Until the enactment of the JTPA Amendments and the promulgation of the September 2, 1994, Final Rule implementing those amendments, the Secretary did not have the authority to waiver either the Act or regulations under either JTPA or Wagner-Peyser. The Final Rule included a provision for the Secretary of Labor to waiver certain administratively imposed requirements as set forth at 20 CFR 627.201. This limited waiver authority did not extent to statutory requirements or statutorily-based regulatory requirements, which could not be waived. This authority also did not cover Wagner-Peyser provisions.

Questions have been raised as to what impact the new JTPA statutory and regulatory authority will have, if any, on waivers which have been granted under the regulatory authority codified at 20 CFR 627.201. The answer is, ''none.'' Waivers previously granted under the old regulatory waiver authority will continue to remain in effect until such time as the Governor decides that the waiver is no longer necessary, or the duration of the granted waiver expires.

It is conceivable that a State may still wish to request a waiver under the authority outlined at 20 CFR 627.201. States should clearly indicate under which authority (i.e., JTPA regulations or DOL Appropriations Act) they are requesting a waiver. Failure to do so can slow down the review and approval/ disapproval process.

11. *Actions Required.* States are expected to fully involve local areas in the development of the waivers. They are also requested to distribute the information on both the Federal process described in this TEGL and the State-established waiver process to their State staff (both JTPA and ES), the SESA local offices, the JTPA SDAs/SSAs, and other interested stakeholders throughout the State.

12. *Inquiries and Comments.* Requests for technical assistance or other inquiries should be directed to the Regional Office (see Attachment for list of regional liaisons).

Attachment

LIST OF REGIONAL LIAISONS ON WAIVER REQUESTS

Region and individual liaisons	Telephone Nos.
I Raymond H. Poet	617–565–2243
II Thomas J. McKenna ..	212–337–2180
III Barry Bridge	215–596–6353
IV Ruby Campbell	404–347–3495
V Donald Sutherland	312–353–2775
VI Anna C. Hall/Robert Larrea.	214–767–2154
VII Roland Berg	816–426–3796 x246
VIII Maxine Ugarte	303–844–1650
IX Ann Marie Myers	415–975–4669
X Smith Piper	206–553–7798

[FR Doc. 97–1796 Filed 1–24–97; 8:45 am]

BILLING CODE 4510–30–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[97–008]

Agency Information Collection: Submission for OMB Review, Comment Request

AGENCY: National Aeronautics and Space Administration (NASA).

SUMMARY: The National Aeronautics and Space Administration has submitted to the Office of Management and Budget (OMB) the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

DATES: Comments on this proposal should be received on or before February 26, 1997.

ADDRESSES: All comments should be addressed to John R. Yadvish, Code XC, National Aeronautics and Space Administration, Washington, DC 20546–0001.

FOR FURTHER INFORMATION CONTACT: Bessie B. Berry, NASA Reports Officer, (202) 358–1368.

Title: NASA Small Business Innovative Research (SBIR) Metrics.

Need and Uses: NASA SBIR Phase II awardee firms would be asked to voluntarily provide data once every three years regarding the extent to which commercial products and services and related commercial activity have resulted from NASA funded SBIR technology. This information is critical to NASA's evaluating and reporting on its success regarding one of its primary mission objectives that NASA programs' contributing significantly to the national economic growth, as well as NASA's success in meeting the objectives of the Vice President's National Performance Review recommendations for NASA and the President's National Space Policy.

Affected Public: Business or other for-profit.

Estimated Number of Respondents: 650 in total, of which approximately

200 will be sampled every year at afrequency of once every three years for each firm.

Responses Per Respondent: Once every three years.

Estimated Annual Responses: 200.

Estimated Hours Per Request: 1.

Estimated Annual Burden Hours: 217.

Frequency of Report: Once every three years.

Dated: January 17, 1997.

Russell S. Rice,

Director, IRM Division.

[FR Doc. 97–1898 Filed 1–24–97; 8:45 am]

BILLING CODE 7510–01–M

[(97–007]

NASA Advisory Council (NAC), Space Science Advisory Committee (SScAC); Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of Meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92–463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council, Space Science Advisory Committee.

DATES: Monday, February 24, 1997, 8:30 a.m. to 5:00 p.m.; Tuesday, February 25, 1997, 8:30 a.m. to 5:00 p.m.; Wednesday, February 25, 1997, 8:30 a.m. to 2:30 p.m.

ADDRESSES: Lunar & Planetary Institute, 3600 Bay Area Boulevard, Houston, TX 77058.

FOR FURTHER INFORMATION CONTACT: Dr. Guenter R. Riegler, Code SR, National Aeronautics and Space Administration, Washington, DC 20546, 202/358–1588.

SUPPLEMENTARY INFORMATION: The meeting will be open to the public up to the capacity of the room. The agenda for the meeting is as follows:

—Status of prior SScAC recommendations

—FY 98 Budget Request

—Subcommittee Business

—Space Summit

—Space Science Theme Roadmaps; Technology Roadmaps, and Strategic Planning Process.

It is imperative that the meeting be held on these dates to accommodate the scheduling priorities of the key participants. Visitors will be requested to sign a visitor's register.

Dated: January 21, 1997.

Leslie M. Nolan,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 97–1897 Filed 1–24–97; 8:45 am]

BILLING CODE 7510–01–M

NATIONAL CREDIT UNION ADMINISTRATION

Sunshine Act Meeting

TIME AND DATE: 10:00 a.m., Wednesday, January 29, 1997.

PLACE: Board Room, 7th Floor, Room 7047, 1775 Duke Street, Alexandria, VA 22314–3428.

STATUS: Open.

BOARD BRIEFING:

1. Insurance Fund Report.

MATTERS TO BE CONSIDERED:

1. Approval of Minutes of Previous Open Meeting.
2. Proposed Revision to the Operating Fee Scale.
3. Chartering and Field of Membership Issues.
4. Requests from Federal Credit Unions to Convert to a Community Charter.
5. Request to Charter a Low-Income Community Federal Credit Union.
6. Requests from Corporate Federal Credit Unions for Field of Membership Amendments.
7. Final Rule: Amendments to part 704, NCUA's Rules and Regulations, Corporate Credit Unions.

FOR FURTHER INFORMATION CONTACT: Becky Baker, Secretary of the Board, Telephone (703) 518–6304.

Becky Baker,

Secretary of the Board.

[FR Doc. 97–1975 Filed 1–22–97; 4:31 pm]

BILLING CODE 7535–01–M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Meetings of Humanities Panel

AGENCY: National Endowment for the Humanities.

ACTION: Notice of meetings.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Public Law 92–463, as amended), notice is hereby given that the following meetings of the Humanities Panel will be held at the Old Post Office, 1100 Pennsylvania Avenue, N.W., Washington, D.C. 20506.

FOR FURTHER INFORMATION CONTACT: Michael S. Shapiro, Advisory Committee Management Officer, National Endowment for the Humanities, Washington, D.C. 20506; telephone (202) 606–8322. Hearing-impaired individuals are advised that information on this matter may be obtained by contacting the Endowment's TDD terminal on (202) 606–8282.

SUPPLEMENTARY INFORMATION: The proposed meetings are for the purpose of panel review, discussion, evaluation and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by the grant applicants. Because the proposed meetings will consider information that is likely to disclose: (1) trade secrets and commercial or financial information obtained from a person and privileged or confidential; or (2) information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee meetings, dated July 19, 1993, I have determined that this meeting will be closed to the public pursuant to subsections (c)(4), and (6) of section 552b of Title 5, United States Code.

1. *Date:* February 7, 1997.
Time: 9:00 a.m. to 5:30 p.m.
Room: 415.
Program: This meeting will review applications for Humanities Projects in Museums and Historical Organizations, submitted to the Division of Public Programs for projects at the December 6, 1996 deadline.

2. *Date:* February 14, 1997.
Time: 9:00 a.m. to 5:30 p.m.
Room: 415.
Program: This meeting will review applications for Humanities Projects in Museums and Historical Organizations, submitted to the Division of Public Programs for projects at the December 6, 1996 deadline.

3. *Date:* February 21, 1997.
Time: 9:00 a.m. to 5:30 p.m.
Room: 415.
Program: This meeting will review applications for Humanities Projects in Media, submitted to the Division of Public Programs for projects at the December 6, 1996 deadline.

4. *Date:* February 24, 1997.
Time: 9:00 a.m. to 5:30 p.m.
Room: 415.
Program: This meeting will review applications for Special Projects, submitted to the Division of Public Programs for projects at the December 6, 1996 deadline.

5. *Date:* February 25, 1997.
Time: 9:00 a.m. to 5:30 p.m.
Room: 415.
Program: This meeting will review applications for Special Projects, submitted to the Division of Public Programs for projects at the December 6, 1996 deadline.

6. *Date:* February 28, 1997.
Time: 9:00 a.m. to 5:30 p.m.
Room: 415.
Program: This meeting will review applications for Humanities Projects in Media, submitted to the Division of Public Programs for projects at the December 6, 1996 deadline.

Michael S. Shapiro,
Advisory Committee Management Officer.

[FR Doc. 97–1809 Filed 1–24–97; 8:45 am]
BILLING CODE 7536–01–M

NUCLEAR REGULATORY COMMISSION

[IA 96–101]

Joseph R. Bynum; Order Prohibiting Involvement in NRC-Licensed Activities (Effective Immediately)

I

Since April 1993, Joseph R. Bynum has held the position of Vice President, Fossil Operations in the Fossil and Hydro Power organization of the Tennessee Valley Authority (TVA or Licensee). At the time of the events described in this Order, Mr. Bynum was employed as Vice President, Nuclear Operations, in the Licensee's corporate organization and was responsible for the oversight of TVA's nuclear program at its four nuclear reactor sites. During this time, the Licensee held five operating licenses and four construction permits issued by the Nuclear Regulatory Commission (NRC or Commission) pursuant to 10 CFR Part 50. License Nos. DPR–77 and DPR–79 authorized the Licensee's operation of the Sequoyah Nuclear Plant in Soddy-Daisy, Tennessee; License Nos. DPR–33, DPR–52, and DPR–68 authorized operation of the Browns Ferry Nuclear Plant in Athens, Alabama; Construction Permit Nos. CPPR–91 (now Operating License NPF–90) and CPPR–92 authorized the construction of the Watts Bar Nuclear Plant in Spring City, Tennessee; and Construction Permit Nos. CPPR–122 and CPPR–123 authorized the construction of the Bellefonte Nuclear Plant in Scottsboro, Alabama.

II

Following receipt of information regarding alleged discrimination against Mr. William F. Jocher, former Manager, Chemistry and Environmental Protection in TVA's corporate organization, the NRC Office of Investigations (OI) initiated an investigation, Case No. 2–93–015, on April 15, 1993. OI completed its investigation on August 31, 1995, and concluded that: (1) Mr. Jocher ''was engaged in protected activities during his employment at TVA, and received an adverse employment action in the form of a threat of termination by TVA if he did not resign''; (2) ''the reason proffered by TVA for this adverse action, namely that Jocher's performance in the area of management skills was inadequate, was primarily pretextual''; and (3) ''despite denials by the TVA managers involved, the methodology of Jocher's engagement in protected activity was the primary reason for the adverse action'' against him.

In addition, on June 29, 1993, Mr. Jocher, filed a complaint with the U. S. Department of Labor (DOL). In his DOL complaint, Mr. Jocher alleged that he was forced to resign from employment with TVA as a result of carrying out activities protected by the Atomic Energy Act of 1954. He further stated that his forced resignation was based on his activities in revealing deficiencies in the plant chemistry programs at the Sequoyah Nuclear Plant, revealing TVA's non-compliance with NRC approved guidelines, and revealing inconsistencies between actual facts and TVA management's reports to the NRC and other TVA oversight groups.

DOL efforts to conciliate the matter between Mr. Jocher and TVA were unsuccessful, and on April 29, 1994, the DOL District Director (DD) issued the initial finding of the DOL compliance action in the case. The DOL DD concluded that Mr. Jocher was a protected employee engaged in protected activity within the scope of the Energy Reorganization Act, and that discrimination, as defined and prohibited by the statute, was a factor in the actions which comprised his complaint.

Following an appeal by TVA, administrative hearings were conducted before the DOL Administrative Law Judge (ALJ). On July 31, 1996, the DOL ALJ issued a Recommended Decision and Order (RDO) in the case (DOL Case No. 94–ERA–24) finding that TVA discriminated against Mr. Jocher in violation of Section 211 of the Energy Reorganization Act. On November 20, 1996, the ALJ issued a Recommended Order of Dismissal, based on a conciliation agreement between Mr. Jocher and TVA, and on November 22, 1996, the DOL Administrative Review Board issued a Final Order Approving Settlement and Dismissing Complaint.

Both the ALJ and OI stated that Mr. Joseph R. Bynum, the former Vice President of Nuclear Operations of TVA, ordered the forced resignation of Mr. Jocher. By letter dated August 26, 1996, Mr. Bynum was informed of the DOL findings and the OI investigation results and requested to attend a predecisional enforcement conference. On September 23, 1996, a closed, transcribed conference was conducted with Mr. Bynum, legal counsel, and management representatives of TVA. During the conference and in a written statement provided to NRC Region II prior to the conference, Mr. Bynum vigorously denied any violation of 10 CFR 50.5, Deliberate Misconduct, and stated that he did not discriminate against Mr. Jocher for engaging in protected activities. He attributed his decision to ask for Mr. Jocher's resignation to Mr. Jocher's poor management skills, and stated that he (Mr. Bynum) used poor judgement in not coordinating the personnel action with the appropriate TVA offices (i.e., Human Resources, Office of General Counsel). Mr. Bynum provided a detailed description of the events and circumstances surrounding Mr. Jocher's departure and addressed specific conclusions drawn by the DOL ALJ.

Based on the NRC staff's review of the evidence gathered by OI, the ALJ decision, and the views presented by Mr. Bynum at the predecisional enforcement conference, the NRC staff is satisfied that discrimination against Mr. Jocher by Mr. Bynum, who is currently the TVA Vice President for Fossil Operations, as described in the ALJ RDO and the OI Report, had occurred when Mr. Bynum ordered the forced resignation of Mr. Jocher. In reaching this determination the staff considered among other things: (1) The close timing between some of the protected activities in March 1993, i.e., formal notification by the NRC that it would be investigating the safety issues raised by Mr. Jocher, and the adverse action taken against Mr. Jocher on April 5, 1993; (2) statements made by TVA managers that Mr. Bynum ordered the forced resignation of Mr. Jocher; (3) inconsistent statements made by Mr. Bynum and the two managers who carried out the forced resignation of Mr. Jocher with respect to why and how the employment decision was made, and whether Mr. Jocher was placed in a six month improvement program in March, 1993; (4) inconsistencies in the various statements given by Mr. Bynum regarding his knowledge of Mr. Jocher's protected activities, most notably the

post-polygraph interview where he stated that he was aware that Mr. Jocher had submitted several safety complaints and Significant Corrective Action Reports, in light of TVA's processes for handling safety issues of which Mr. Bynum should have been fully cognizant; (5) the results of Mr. Bynum's voluntary polygraph examination which indicated deception with respect to key questions related to the termination of Mr. Jocher; and (6) the lack of adequate documentation by TVA as to Mr. Jocher's inadequacies as a TVA manager.

The staff adopts, in essence, the conclusions reached by OI and the DOL ALJ and believes that Mr. Jocher would not have been forced to resign on April 5, 1993 but for his engaging in protected activities. Therefore, it is concluded that, on April 5, 1993, Mr. Bynum's deliberate actions against Mr. Jocher were in violation of Section 211 of the Energy Reorganization Act and 10 CFR 50.5, Deliberate Misconduct. Further, Mr. Bynum's actions caused TVA to be in violation of 10 CFR 50.7, Employee Protection.

III

Based on the above, the staff concludes that Mr. Joseph R. Bynum, an employee of the Licensee, has engaged in deliberate misconduct in violation of 10 CFR 50.5 that has caused the Licensee to be in violation of 10 CFR 50.7. NRC must be able to rely on the Licensee and its employees to comply with NRC requirements, including the requirement that prohibits discrimination against employees for engaging in protected activities. Joseph R. Bynum's actions in causing the Licensee to violate 10 CFR 50.7 have raised serious doubt as to whether he can be relied upon to comply with NRC requirements in the future.

Consequently, I lack the requisite reasonable assurance that licensed activities can be conducted in compliance with the Commission's requirements and that the health and safety of the public will be protected if Joseph R. Bynum were permitted at this time to be involved in NRC-licensed activities. Therefore, the public health, safety and interest require that Joseph R. Bynum be prohibited from any involvement in NRC-licensed activities for a period of five years retroactive to May 1, 1993, the date in which he was transferred out of the Licensee's nuclear organization. If Mr. Bynum is currently involved in or overseeing NRC-licensed activities at TVA or any other licensee of the NRC, he must immediately cease such activities, and inform the NRC of the name, address and telephone number of the employer, and provide a copy of this order to the employer. Additionally, Joseph R. Bynum is required to notify the NRC of his first involvement in NRC-licensed activities following the prohibition period. Furthermore, pursuant to 10 CFR 2.202, I find that the significance of Mr. Bynum's conduct described above is such that the public health, safety and interest require that this Order be immediately effective.

IV

Accordingly, pursuant to sections 103, 161b, 161i, 182 and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.202, 10 CFR 50.5, and 10 CFR 150.20, *it is hereby ordered that:*

A. For a period of five years from May 1, 1993, Joseph R. Bynum is prohibited from engaging in, or exercising control over individuals engaged in NRC-licensed activities. NRC-licensed activities are those activities which are conducted pursuant to a specific or general license issued by the NRC, including, but not limited to, those activities of Agreement State licensees conducted pursuant to the authority granted by 10 CFR 150.20. This prohibition includes, but is not limited to: (1) Using licensed materials or conducting licensed activities in any capacity within the jurisdiction of the NRC; and (2) supervising or directing any licensed activities conducted within the jurisdiction of the NRC.

B. Following the five-year period of prohibition in Section IV.A above, at least five days prior to the first time that Joseph R. Bynum engages in, or exercises control over, NRC-licensed activities, he shall notify the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, of the name, address, and telephone number of the NRC or Agreement State licensee and the location where the licensed activities will be performed. The notice shall be accompanied by a statement that Joseph R. Bynum is committed to compliance with NRC requirements and the reasons why the Commission should have confidence that he will comply with applicable NRC requirements.

The Director, Office of Enforcement, may, in writing, relax or rescind any of the above conditions upon demonstration by Mr. Bynum of good cause.

V

In accordance with 10 CFR 2.202, Joseph R. Bynum must, and any other person adversely affected by this Order may, submit an answer to this Order, and may request a hearing on this Order, within 20 days of the date of this Order. Where good cause is shown, consideration will be given to extending the time to request a hearing. A request for extension of time must be made in writing to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission Washington, D.C. 20555, and include a statement of good cause for the extension. The answer may consent to this Order. Unless the answer consents to this Order, the answer shall, in writing and under oath or affirmation, specifically admit or deny each allegation or charge made in this Order and shall set forth the matters of fact and law on which Joseph R. Bynum or other person adversely affected relies and the reasons as to why the Order should not have been issued. Any answer or request for a hearing shall be submitted to the Secretary, U.S. Nuclear Regulatory Commission, Attn: Chief, Docketing and Service Section, Washington, DC 20555. Copies also shall be sent to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555, to the Assistant General Counsel for Hearings and Enforcement at the same address, to the Regional Administrator, NRC Region II, 101 Marietta Street, Suite 2900, Atlanta, GA 30323, and to Joseph R. Bynum if the answer or hearing request is by a person other than Joseph R. Bynum. If a person other than Joseph R. Bynum requests a hearing, that person shall set forth with particularity the manner in which his or her interest is adversely affected by this Order and shall address the criteria set forth in 10 CFR 2.714(d).

If a hearing is requested by Joseph R. Bynum or a person whose interest is adversely affected, the Commission will issue an Order designating the time and place of any hearing. If a hearing is held, the issue to be considered at such hearing shall be whether this Order should be sustained.

Pursuant to 10 CFR 2.202(c)(2)(i), Mr. Joseph R. Bynum, or any other person adversely affected by this Order, may, in addition to demanding a hearing, at the time the answer is filed or sooner, move the presiding officer to set aside the immediate effectiveness of the Order on the ground that the Order, including the need for immediate effectiveness, is not based on adequate evidence but on mere suspicion, unfounded allegations, or error.

In the absence of any request for hearing, or written approval of an extension of time in which to request a hearing, the provisions specified in Section IV above shall be effective and final 20 days from the date of this Order

without further order or proceedings. If an extension of time for requesting a hearing has been approved, the provisions specified in Section IV shall be final when the extension expires if a hearing request has not been received. An answer or a request for hearing shall not stay the immediate effectiveness of this Order.

Dated at Rockville, Maryland, this 13th day of January 1997.

For the Nuclear Regulatory Commission.

Edward L. Jordan,

Deputy Executive Director for Regulatory Effectiveness, Program Oversight, Investigations, and Enforcement.

[FR Doc. 97–1857 Filed 1–24–97; 8:45 am]

BILLING CODE 7590–01–P

[Docket No. STN 50–530]

Arizona Public Service Company; Palo Verde Nuclear Generating Station, Unit No. 3; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an exemption to Facility Operating License No. NPF–74, issued to Arizona Public Service Company (the licensee), for operation of the Palo Verde Nuclear Generating Station, Unit No. 3 located in Maricopa County, Arizona.

Environmental Assessment

Identification of the Proposed Action

The proposed action would allow a temporary exemption for Palo Verde Nuclear Generating Station (PVNGS), Unit 3, from the requirements of 10 CFR 50.44, 10 CFR 50.46, and 10 CFR Part 50, Appendix K. The proposed action would permit the use of up to three lead fuel assemblies containing fuel rods clad with advanced Zirconium-based alloys in PVNGS Unit 3 for Cycles 7, 8, and 9.

The proposed action is in accordance with the licensee's application for exemption dated September 12, 1996.

The Need for the Proposed Action

The proposed action is needed to allow testing of representative cladding material whose chemical composition falls outside the ASTM specifications for Zircaloy. The regulations currently specify the use of Zircaloy or ZIRLO cladding material. The proposed action would allow testing to collect data to support future regulation changes to allow full batch use of the new cladding material.

Environmental Impacts of the Proposed Action

The Commission has completed its evaluation of the proposed action and concludes, pursuant to 10 CFR 50.12, that the exemption is authorized by law and will not endanger life or property and is otherwise in the public interest. The proposed material is very similar to current cladding materials used in the core and, core neutronics, mechanics, hydraulics and materials integrity will not be affected by the use of the test assemblies.

The change will not increase the probability or consequences of accidents, no changes are being made in the types of any effluents that may be released offsite, and there is no significant increase in the allowable individual or cumulative occupational radiation exposure. Accordingly, the Commission concludes that there are no significant radiological environmental impacts associated with the proposed action.

With regard to potential nonradiological impacts, the proposed action does involve features located entirely within the restricted area as defined in 10 CFR Part 20. It does not affect nonradiological plant effluents and has no other environmental impact. Accordingly, the Commission concludes that there are no significant nonradiological environmental impacts associated with the proposed action.

Alternatives to the Proposed Action

Since the Commission has concluded that there is no measurable environmental impact associated with the proposed action, any alternatives with equal or greater environmental impact need not be evaluated. As an alternative to the proposed action, the staff considered denial of the proposed action. Denial of the application would reduce operational flexibility and would not change current environmental impacts.

Alternative Use of Resources

This action does not involve the use of any resources not previously considered in the Final Environmental Statement for the Palo Verde Nuclear Generating Station dated February 1982.

Agencies and Persons Consulted

In accordance with its stated policy, on January 21, 1997, the staff consulted with the Arizona State official, Mr. William Wright of the Arizona Radiation Regulatory Agency, regarding the environmental impact of the proposed action. The State official had no comments.

Finding of No Significant Impact

Based upon the environmental assessment, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed action.

For further details with respect to the proposed action, see the licensee's letter dated September 12, 1996, which is available for public inspection at the Commission's Public Document Room, The Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Phoenix Public Library, 1221 N. Central Avenue, Phoenix, Arizona 85004.

Dated at Rockville, Maryland, this 21st day of January 1997.

For the Nuclear Regulatory Commission

James W. Clifford,

Senior Project Manager, Project Directorate IV–2, Division of Reactor Projects—III/IV, Office of Nuclear Reactor Regulation.

[FR Doc. 97–1858 Filed 1–24–97; 8:45 am]

BILLING CODE 7590–01–P

[Project No. 697]

Notice of Public Meeting on DOE's Proposal to Produce Tritium in Commercial Light-Water Reactors

The U.S. Nuclear Regulatory Commission (NRC) will hold a public meeting regarding the U.S. Department of Energy (DOE) proposal for production of tritium in commercial light-water reactors. This meeting is to provide an opportunity for public comment on the technical issues regarding the DOE proposal and to ensure that the public is aware of the staff's review activities early in the proposal evaluation process. The meeting will be held from 1:00 p.m. until 5:00 p.m. on February 25, 1997, in the auditorium located within the Two White Flint North building at 11555 Rockville Pike in Rockville, Maryland. The meeting will be transcribed and will be open to the public.

The structure of the meeting shall be as follows:

Tuesday, February 25, 1997:
1:00 p.m.—NRC opening remarks
1:15 p.m.—DOE program description
2:45 p.m.—NRC review description
3:00 p.m.—Break
3:15 p.m.—Public comments
4:55 p.m.—Concluding statement
5:00 p.m.—Meeting adjourns

Members of the public who are interested in presenting comments relative to DOE's tritium program should notify the project manager, at the

number given below, 5 working days prior to the meeting. A brief summary of the information to be presented and the time requested should be provided in order to make appropriate arrangements. Time allotted for presentations by members of the public will be determined based upon the number of requests received and will be announced at the beginning of the meeting. Time permitting, additional, unscheduled presentations will be considered. The order for public presentations will be on a first-received, first-to-speak basis. Written statements will also be accepted and included in the record of the meeting. Written statements may be mailed to the U.S. Nuclear Regulatory Commission, Mailstop O–10H5, Attn: J. H. Wilson, Washington, DC 20555 or presented at the meeting.

Requests for the opportunity to present information can be made by contacting J. H. Wilson, Project Manager, Division of Reactor Program Management at (301) 415–1108. Persons planning to attend this meeting are urged to contact the project manager 1 or 2 days prior to the meeting to be advised of any changes.

For further details with respect to this action, see the DOE's ''Submittal of Tritium Producing Burnable Absorber Rod Lead Test Assembly Topical Report'' dated December 3, 1996 and the staff's Request for Additional Information and Supplemental Request for Additional Information dated January 3 and 13, 1997, respectively, all of which are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC.

Dated at Rockville, Maryland, this 21st day of January, 1997.

For the Nuclear Regulatory Commission.

Thomas T. Martin,

Director, Division of Reactor Program Management, Office of Nuclear Reactor Regulation.

[FR Doc. 97–1859 Filed 1–24–97; 8:45 am]

BILLING CODE 7590–01–P

RAILROAD RETIREMENT BOARD

Agency Forms Submitted for OMB Review

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Railroad Retirement Board has submitted the following proposal(s) for the collection of information to the Office of Management and Budget for review and approval.

SUMMARY OF PROPOSAL(S):

(1) *Collection title:* Repayment of Debt.

(2) *Form(s) submitted:* G–421f.

(3) *OMB Number:* 3220–0169.

(4) *Expiration date of current OMB clearance:* February 28, 1997.

(5) *Type of request:* Extension of a currently approved collection.

(6) *Respondents:* Individuals or households.

(7) *Estimated annual number of respondents:* 300.

(8) *Total annual responses:* 300.

(9) *Total annual reporting hours:* 25.

(10) *Collection description:* Section 2 of the Railroad Retirement Act provides for payment of annuities to retired or disabled railroad employees, their spouses, and eligible survivors. When the RRB determines that an overpayment of RRA benefits has occurred, it initiates prompt action to notify the claimant of the overpayment and to recover the amount owed. The collection obtains information needed to allow for repayment by the claimant by credit card, in addition to the customary form of payment by check or money order.

ADDITIONAL INFORMATION OR COMMENTS: Copies of the form and supporting documents can be obtained from Chuck Mierzwa, the agency clearance officer (312–751–3363). Comments regarding the information collection should be addressed to Ronald J. Hodapp, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois 60611–2092 and the OMB reviewer, Laura Oliven (202–395–7316), Office of Management and Budget, Room 10230, New Executive Office Building, Washington, D.C. 20503.

Chuck Mierzwa,

Clearance Officer.

[FR Doc. 97–1912 Filed 1–24–97; 8:45 am]

BILLING CODE 7905–01–M

Sunshine Act Meeting

The meeting of the Railroad Retirement Board which was to be held on January 22, 1997, 9:00 a.m., at the Board's meeting room on the 8th floor of its headquarters building, 844 North Rush Street, Chicago, Illinois, 60611, has been rescheduled to January 29, 1997, at 9:00 a.m. The agenda for this meeting was published at FR 1139 on January 8, 1997.

The entire meeting will be open to the public. The person to contact for more information is Beatrice Ezerski, Secretary to the Board, Phone No. 312–751–4920.

Dated: January 22, 1997.

Beatrice Ezerski,

Secretary to the Board.

[FR Doc. 97–1998 Filed 1–23–97; 11:03 am]

BILLING CODE 7905–01–M

SECURITIES AND EXCHANGE COMMISSION

[Rel. No: IC–22474; 812–10230]

Principal Mutual Life Insurance Company, et al.

January 17, 1997.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice of application for an order pursuant to the Investment Company Act of 1940 (''1940 Act'').

APPLICANTS: Principal Mutual Life Insurance Company (''Principal Mutual''), Principal Mutual Life Insurance Company Variable Life Separate Account (''Account'') and Princor Financial Services Corporation (''Princor'').

RELEVANT 1940 ACT SECTIONS: Order requested under Section 11(a) of the 1940 Act.

SUMMARY OF APPLICATION: Applicants request an order under Section 11(a) of the 1940 Act approving an exchange offer in which certain variable universal life insurance policies issued by Principal Mutual and offered through the Account (''Old Policies'') may be exchanged for new variable universal life insurance policies issued by Principal Mutual and offered through the Account (''New Policies,'' collectively with Old Policies, ''Policies'').

FILING DATE: The application was filed on July 1, 1996, and amended on December 20. 1996.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Secretary of the Commission and serving Applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on February 12, 1997, and should be accompanied by proof of service on Applicants in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the requester's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the Secretary of the Commission.

ADDRESSES: Secretary, Securities and Exchange Commission, 450 Fifth Street,

N.W., Washington, D.C. 20549. Applicants, David J. Brown, Esq., The Principal Financial Group, Des Moines, Iowa 50392–0200.

FOR FURTHER INFORMATION CONTACT: Pamela K. Ellis, Senior Counsel, or Kevin M. Kirchoff, Branch Chief, Office of Insurance Products (Division of Investment Management), at (202) 942–0670.

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application is available for a fee from the Public Reference Branch of the Commission.

Applicants' Representations

1. Principal Mutual, a mutual life insurance company incorporated in Iowa, is authorized to do business in the 50 states of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and the Canadian Provinces of Alberta, British Columbia, Manitoba, Ontario, and Quebec.

2. The Account, a separate account of Principal Mutual, is registered under the 1940 Act as a unit investment trust.

3. Princor, the principal underwriter for the Policies, is an indirect wholly owned subsidiary of Principal Mutual. Princor is registered with the Commission under the Securities Exchange Act of 1934 as a broker-dealer, and is a member of the National Association of Securities Dealers, Inc.

Old Policies

4. The Old Policies are flexible-premium life insurance policies that permit accumulation of policy values on a variable basis. The Old Policies require premium payments to be made in at least a specified amount for the first policy year, and have a minimum face amount of $25,000. An Old Policy matures on the policy anniversary following the 95th birthday of the insured.

5. Policy values of the Old Policies currently may be allocated to six divisions of the Account, each of which invests in an underlying fund sponsored by Principal Mutual. Policy values may be transferred among the six divisions of the Account, the first four transfers in a policy year at no charge, and additional transfers subject to a charge of $25 per transfer (with all transfers occurring on the same effective date counting as one transfer).

6. The Old Policies permit partial surrenders and policy loans. Interest payable on policy loans is 8%; interest credited on loan accounts established in connection with outstanding loans is 6%.

7. The Old Policies offer a choice of two death benefit options; a level death benefit equal to the Old Policy's face amount, or a death benefit equal to the face amount plus policy value.

8. The Old Policies have both a front-end sales load and a contingent deferred sales load (''CDSL''). The front-end sales load is 5.00% of all premiums paid under an Old Policy. A surrender charge consisting of a CDSL and a contingent deferred acquisition charge (''CDAC'') is deducted upon surrender of an Old Policy. These surrender charges vary with the issue age, duration since issue, and, where allowed by law, the gender of the insured.

9. The maximum CDSL under the Old Policies is not greater than 25% of the minimum payment required in the first year (which is always less than a Guideline Annual Premium, as defined in Rule 6e–3(T)(c)(8) under the 1940 Act). The CDAC varies from $0.43 per $1,000 of face amount to $10.58 per $1,000 of face amount according to tables set forth in the Old Policy. Additional CDAC and CDSL charges are computed upon increases in face amount. The surrender charges apply only at the time of a full surrender or lapse of an Old Policy. There is a charge of the lesser of $25 or 2% of the amount surrendered for processing partial surrenders under the Old Policy. The amount of the surrender charges decreases over time according to when the surrender or lapse occurs, according to the following schedule:

Surrender year	Surreder charge percentage
1–3	100.0
4	87.5
5	75.0
6	62.5
7	50.0
8	37.5
9	25.0
10	12.5
11 or more	0.0

10. An amount equal to 2.00% of premiums received under the Old Policies is deducted for state premium tax obligations of Principal Mutual in connection with receipt of premiums under the Old Policies.

11. A charge is deducted from the policy value of each Old Policy monthly for administration of the Old Policies. This charge currently is $4.75 per month, and is guaranteed not to be more than $5.00 per month.

12. Under the Old Policies, a mortality and expense risks charge is deducted from the Account daily at an annual rate of 0.75% of average daily Account value (guaranteed not to exceed 0.90%).

13. A cost of insurance charge that is guaranteed to be no more than that permitted under the applicable 1980 Commissioners Standard Ordinary Mortality Table (''1980 CSO Table'') is deducted from policy value each month.

14. Several optional insurance riders are offered by Principal Mutual in connection with the Old Policies. Among these are riders providing for: (i) Increases in face amount every three years based upon cost of living increases; (ii) waiver of monthly deductions in the event of disability of the insured; (iii) optional increases in face amount upon certain dates or the occurrence of certain events; (iv) accidental death benefit; (v) term insurance on the lives of insured children; (vi) term insurance on an insured spouse; (vii) change of the person insured; (viii) accelerated death benefit; and (ix) a death benefit guarantee.

New Policies

15. The New Policies are flexible-premium life insurance policies that permit accumulation of policy values on a variable, fixed, or combination of variable and fixed basis. The New Policies require premium payments to be made in at least a specified amount for the first 24 policy months (where permitted by state law), and have a minimum face amount of $50,000. The New Policies mature on the policy anniversary following the 95th birthday of the insured.

16. Policy values of the New Policies currently may be allocated to divisions of the Account that invest in thirteen different underlying funds—ten mutual funds sponsored by Principal Mutual, two investment portfolios of Fidelity Variable Insurance Products Fund, and one investment portfolio of Fidelity Variable Insurance Products Fund II.

17. Policy values may also be accumulated on a guaranteed basis by allocation to Principal Mutual's general account (''Fixed Account''). Interest on accounts invested in the Fixed Account is guaranteed to be at least 3% on an annual basis.

18. Policy values may be transferred among the divisions of the Account without charge, although Principal Mutual reserves the right to impose a charge of up to $25 per transfer on unscheduled transfers in excess of 12 in a policy year. Transfers to and from the Fixed Account are permitted, subject to certain restrictions described in the prospectus for the New Policies.

19. The New Policies permit partial surrenders and policy loans. Interest

payable on policy loans is 8%; interest credited on loan accounts established in connection with outstanding loans is 6% during the first ten policy years and 7.75% thereafter.

20. The New Policies offer a choice of two death benefit options: a level death benefit equal to the New Policy's face amount, or a death benefit equal to the face amount plus policy value.

21. The New Policies have both a front-end sales load and a CDSL. The front-end sales load is 2.75% of: (a) premiums paid during each of the first ten policy years up to one ''target premium'' for the initial face amount of insurance; and (b) premiums up to the target premium for an incremental amount of insurance added by a face amount increase (''incremental target premium'') paid during each of the first ten policy years after a face amount increase that are allocable to the increase. Payments after an increase in face amount are allocated between the ''base policy'' and the ''incremental policy'' that is added by increase according to the relative face amounts of the base policy and the incremental policy. Payments in any policy year in the first ten policy years in excess of the target premium (or payments in the first ten policy years after a face amount increase that are allocable to the increase in face amount and are in excess of the incremental target premium) are assessed a front-end sales load of 0.75%. Payments made after ten policy years (if there has been no face amount increase), or ten policy years after a face amount increase, are not subject to a front-end sales charge.

22. A surrender charge consisting of the CDSL and a CDAC is deducted upon surrender of a New Policy. The maximum CDAC is $3 per $1,000 for the first $500,000 of face amount. The maximum CDSL is 47.25% of the first two target premiums received (and the first two target premiums received for any incremental amount of insurance coverage added by an increase in face amount) for insureds under age 66. If the insured is older than 65 at the Policy Date or the date of a face amount increase, then the number of target premiums to which this charge applies is reduced from two to: (a) 1.5 for ages 66–70; (b) 1.1 for ages 71–75; (c) 0.8 for ages 76–80; or (d) 0.5 for ages 81–85. The surrender charges apply only at the time of a full surrender or lapse of a New Policy. There is a charge of the lesser of $25 or 2% of the amount surrendered for processing partial surrenders. The amount of the surrender charge decreases over time according to when the surrender or lapse occurs, according to the following schedule:

Surrender year	Surrender charge percentage
1–5	100.00
6	95.24
7	85.71
8	71.43
9	52.38
10	28.57
11 or more	0.0

23. The amount of the CDSL that applies in the event of a surrender or lapse in the first two policy years generally will be limited as a result of ''refund rights'' required by paragraph (b)(13)(v)(A) of Rule 6e–3(T). In the event of such a surrender or lapse, the CDSL will be limited to an amount that would cause the total sales load (sales load deducted from premiums plus the CDSL) paid in connection with premiums paid up to the first two guideline annual premiums not to exceed the sum of: (i) 30% of the premiums paid up to the lesser of one guideline annual premium or the maximum amount of premiums subject to the deferred sales charge; plus (ii) 10% of the premiums paid in excess of one guideline annual premium, up to the lesser of two guideline annual premiums or the maximum amount of premiums subject to the deferred sales charge.

24. Charges are deducted from premium payments under the New Policies for state, local, and federal taxes. An amount equal to 2.20% of premiums received under the New Policies is deducted for state and local premium tax obligations of Principal Mutual in connection with receipt of premiums under the New Policies, and 1.25% is deducted for Principal Mutual's increased federal income tax obligations because it must amortize a portion of its expenses in offering the Policies over ten years for federal income tax purposes.

25. A charge for administration of the New Policies is deducted monthly from the policy value of each New Policy. For the first policy year, this charge currently is $0.40 per $1,000 of face amount up to $500,000, and is guaranteed to be no more than $0.60 per $1,000 of face amount up to $500,000. The current minimum monthly administration charge in the first policy year is $6.00, and is guaranteed to be no more than $16.67. After the first policy year, the monthly administration charge currently is $6.00 and is guaranteed to be no more than $10.00.

26. A cost of insurance charge that is guaranteed to be no more than that permitted under the applicable 1980 CSO Table is deducted from policy value each month.

27. For the first nine policy years, a mortality and expense risks charge is deducted from policy value monthly at an annual rate of 0.90% of the value of the amount of policy value allocated to the divisions. After the ninth policy year, the mortality and expense risks charge will be reduced to a 0.27% annual rate. Principal Mutual reserves the right to increase the 0.27% charge to as much as 0.90%, but only for Policies issued on or after the date of such an increase and not for Policies already in force at the time of the increase. Thus, a New Policy acquired in an exchange that had the reduction to 0.27% would not be subject to any subsequent increase.

28. Several optional insurance riders are offered by Principal Mutual in connection with the New Policies. Among these riders are three that permit face amount increases without new evidence of insurability, and accounting benefit riders that are designed to minimize the adverse impact on the earnings of a business that purchases a New Policy that would otherwise result under generally accepted accounting principles.

Offer of Exchange

29. Applicants represent that the offer to exchange Old Policies for New Policies will be made by providing owners or Old Policies a prospectus for the New Policies, accompanied by a letter explaining the offer and a piece of sales literature that compares the two Policies. The offering letter will advise the Old Policy owner that personalized illustrations comparing the two Policies using the information particular to that Policy owner will be available without cost upon request.

30. Applicants state that the exchange offer (which will remain open for at least one year) will provide that, upon acceptance of the offer, a New Policy will be issued with the same face amount and policy value as the Old Policy surrendered in the exchange.

31. The risk class for a New Policy acquired by exchange will be that most similar to the risk class for the exchanged Old Policy. If an Old Policy includes a face amount increase at a risk class less favorable than that for the Old Policy as originally issued, then the New Policy will be issued at the risk class most similar to that for the Old Policy as originally issued. Applicants represent that new evidence of insurability will not be required as a condition of the exchange unless: (i) The Policy owner requests one or more of certain optional insurance riders

under the New Policy that were not a part of the Old Policy; (ii) the Policy owner applies to have the insured's rating upgraded to the ''preferred'' rating that is offered under the New Policies but not under the Old Policies; or (iii) the Policy owner requests a face amount increase at the time of the exchange. The New Policy's $50,000 minimum face amount increase will be reduced to $25,000 for increases requested at the time of the exchange. If new underwriting is required as part of the exchange for reason number (ii) above, a charge of $100 normally would be imposed. If the Policy owner also requests a face amount increase of $25,000 or more at the time of the exchange, however, the $100 charge for the new underwriting will be waived. Any increase in face amount, upgrade to a preferred rating, and any new rider added in connection with an exchange will take effect on the next date that monthly charges are deducted under the New Policy after the new underwriting is completed.

32. Applicants represent that no surrender charge will be deducted upon the surrender of an Old Policy in connection with an exchange, and no front-end sales load will be deducted from the proceeds of that surrender when those proceeds are applied to the purchase of a New Policy as part of an exchange. If the policy date of the Old Policy is the same day of the month as the policy date of the New Policy, then surrender charges and front-end sales loads on subsequent premium payments for the New Policy will be calculated as if the policy date of the Old Policy were also the policy date of the New Policy. If the policy date of the Old Policy is on a day of the month different from the policy date of the New Policy, then surrender charges and front-end loads on subsequent premium payments for the New Policy will be calculated as if the monthly date (the day of the month which is the same as the day of the policy date) of the New Policy that would have immediately preceded the policy date of the Old Policy were the policy date of the New Policy (''Adjusted Policy Date''). If an Old Policy includes one or more face amount increases, the surrender charge and front-end loads of a New Policy acquired in the exchange will be calculated using the Adjusted Policy Date as if the Adjusted Policy Date had been the effective date of each face amount increase under the Old Policy. Any commissions paid to sales representative for sales of New Policies by means of the exchange offer will be paid by Principal Mutual or Princor (and not by policy owners).

33. Optional insurance riders attached to an Old Policy surrendered in an exchange will be eligible to be included with the New Policy acquired in the exchange only if that rider (or a substantially equivalent rider) is available under the New Policies.

34. Applicants state that certain restrictions of the New Policies will be waived in connection with New Policies acquired in exchange for Old Policies. The $50,000 minimum face amount of the New Policies will be waived for New Policies acquired in exchange for an Old Policy with less than that face amount. There will be no minimum required premium payment for New Policies so acquired (even if the Old Policy exchanged was in its first two policy years).

35. Loans under an Old Policy must be repaid in cash or by means of a partial surrender prior to the exchange. Any letters to Old Policy owners describing the exchange offer will include the fact that loans must be repaid prior to the exchange and disclosure that repayment of a loan by means of a partial surrender could have adverse tax consequences to the Old Policy owner. Principal Mutual represents that it will waive the partial surrender charge that would otherwise be applicable to a partial surrender made in connection with accepting the exchange offer and that is used solely to pay off an outstanding loan.

36. Applicants represent that the suicide clause, incontestability, and free time periods of the Old Policy will apply to the New Policy acquired in an exchange. That is, no new suicide clause, incontestability, or free look time periods will commence at the time of the exchange, and any such periods for the Old Policy that had not expired at the time of the exchange would carry over to the New Policy and would expire when they would have expired had no exchange taken place.

Applicants' Legal Analysis

1. Section 11(a) of the 1940 Act makes it unlawful for any registered open-end company, or any principal underwriter for such a company, to make or cause to be made an offer to the holder of a security of such company, or of any other open-end investment company, to exchange his security for a security in the same or another such company on any basis other than the relative net asset values of the respective securities, unless the terms of the offer have first been submitted to and approved by the Commission or are in accordance with Commission rules adopted under Section 11.

2. Section 11(c) of the 1940 Act, in pertinent part, requires, in effect, that any offer of exchange of the securities of a registered unit investment trust for the securities of any other investment company be approved by the Commission or satisfy applicable rules adopted under Section 11, regardless of the basis of the exchange.

3. The Account is registered under the 1940 Act as a unit investment trust. Accordingly, the proposed exchange offer constitutes an offer of exchange of two securities, each of which is offered by a registered unit investment trust. Thus, unless the terms of the exchange offer are consistent with those permitted by Commission rule, Applicants may make the proposed exchange offer only after the Commission has approved the terms of the offer by an order pursuant to Section 11(a) of the 1940 Act.

4. Applicants assert that the legislative history of Section 11 of the 1940 Act and the rules thereunder demonstrates that its purpose is to prevent the practice of inducing security holders of one investment company to exchange their securities for those of a different investment company solely for the purpose of exacting additional selling charges, a practice found by Congress to be widespread in the 1930's prior to adoption of the 1940 Act. Applications under Section 11(a) and orders granting those applications appropriately have focused on sales loads or sales load differentials and administrative fees to be imposed for effecting a proposed exchange.

5. Rule 11a–2, adopted under Section 11 of the 1940 Act, provides blanket Commission approval of certain types of offers of exchange of one variable annuity contract for another, or of one variable life insurance contract for another. Applicants believe that there is language in the Commission's release adopting the rule that suggests that the rule may have been intended to permit exchanges of funding options within a single variable life insurance policy but not the exchange of one such policy for another.

6. Under Rule 11a–2, variable life insurance exchanges may vary from relative net asset exchanges only by reason of disclosed administrative fees, no sale loads or sales load differentials are permitted under the rule for such exchanges. Because both the Old and New Policies have both front-end and contingent deferred sales loads, Rule 11a–2 would be unavailable to the proposed exchanges, even if such policy-for-policy exchanges otherwise would be permitted under Rule 11a–2.

7. Adoption of Rule 11a–3 represents the most recent Commission action under Section 11 of the 1940 Act. As with Rule 11a–2, the focus of the Rule is primarily on sales or administrative charges that would be incurred by investors for effecting exchanges. Applicants assert that the terms of the proposed offer are consistent with Rule 11a–3 because no additional sales charges will be incurred as a result of the exchange and no administrative fees will be charged to effect the exchange. Because the investment company involved in the proposed exchange offer is a separate account, and because it is organized as a unit investment trust rather than as a management investment trust, Applicants believe that they may not rely upon Rule 11a–3.

8. Applicants assert that the terms of the proposed exchange do not present the abuses against which Section 11 was intended to protect. No additional sales load or other fee will be imposed at the time of exchange other than the $100 that may be imposed in connection with new underwriting needed for: (i) Certain optional insurance riders; (ii) an upgrade to a preferred rating class; or (iii) a face amount increase.

9. The policy value and death benefit of a New Policy acquired in the proposed exchange will be precisely the same immediately after the exchange as that of the Old Policy exchanged immediately prior to the exchange. Accordingly, Applicants assert that the exchanges, in effect, will be relative net asset value exchanges that would be permitted under Section 11(a) if the Account were registered as a management investment company rather than as a unit investment trust.

10. The description of the proposed exchange offer in letters to Old Policy owners and in the New Policy's prospectus will provide full disclosure of the material differences in the two policies. Those letters, and any other sales literature used in connection with the exchange offer, will have been filed with the National Association of Securities Dealers, Inc. for review. Each Old Policy owner will be offered personalized hypothetical illustrations that compare the Old and New Policies. Applicants assert that, assuming no premature surrender, the New Policies should be less expensive than the Old Policies for many, if not most, Policy owners. Applicants believe that the disclosure provided and the illustrations provided upon request provide Old Policy owners with sufficient information to determine which Policy they prefer.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–1821 Filed 1–24–97; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 35—26648]

Filings Under the Public Utility Holding Company Act of 1935, as Amended (''Act'')

January 17, 1997.

Notice is hereby given that the following filing(s) has/have been made with the Commission pursuant to provisions of the Act and rules promulgated thereunder. All interested persons are referred to the application(s) and/or declaration(s) for complete statements of the proposed transaction(s) summarized below. The application(s) and/or declaration(s) and any amendments thereto is/are available for public inspection through the Commission's Office of Public Reference.

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by February 10, 1997, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the relevant applicant(s) and/or declarant(s) at the address(es) specified below. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After said date, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

Gulf Power Co. (70–8949)

Gulf Power Company (''Gulf''), 500 Bayfront Parkway, Pensacola, Florida, 32501, an electric public utility subsidiary company of The Southern company, a registered holding company, has filed an application-declaration under sections 6(a), 7, 9(a) and 10 of the Act and rule 54 thereunder.

Gulf proposes to incur obligations, from time to time through December 31, 2003, in connection with the issuance and sale by public instrumentalities of one or more series of pollution control revenue bonds (''Revenue Bonds'') in an aggregate principal amount of up to $200 million.

Gulf also proposes to issue and sell, through December 31, 2003, one or more series of its first mortgage bonds (''Bonds''), to mature in more than 40 years, and one or more series of preferred stock (''Stock''), in an aggregate amount of up to $400 million in any combination of issuance.

The Revenue Bonds would be issued to finance or reference air and water pollution control facilities and sewage and solid waste disposal facilities at electric power plants or other installations. Each county or other public instrumentality (''County'') with a plant or installation within its jurisdiction would issue Revenue bonds to finance or refinance the pollution control or waste disposal facilities associated with that plant or installation (''Project'').

The Revenue Bonds would mature within forty years of issuance and could involve a mandatory redemption sinking fund calculated to retire a portion of the aggregate principal amount of the Revenue Bonds prior to maturation.

Gulf would enter into a Loan or Installment Sale Agreement with each County (''Agreement'') for each issue of the Revenue Bonds. Gulf would issue a note (''Note'') therefore or the County would undertake to purchase and sell the related Project to Gulf. The proceeds from the sale of the Revenue Bonds would be deposited with a trustee (''Trustee'') under an indenture (''Trust Indenture'') and would be used by Gulf for payment of the cost of construction of the Project or to refund outstanding pollution control revenue obligations.

The Trust Indenture and the Agreement would give the holders of the Revenue Bonds the right, when the Revenue Bonds bear interest at a fluctuating rate, to require Gulf to purchase the Revenue Bonds. Arrangements could be made to remarket the Revenue Bonds. Gulf also could be required to purchase the Revenue Bonds, or the Revenue Bonds could be subject to mandatory redemption, if the interest thereon is determined to be subject to federal income tax, in which case interest on the Revenue Bonds also could be converted to an increased variable or fixed rate. Gulf also could be required to indemnify the holders against other additions to interest, penalties and additions to tax.

To obtain ratings for the Revenue Bonds equal to the rating of first mortgage bonds outstanding under a September 1, 1941 indenture between Gulf and The Chase Manhattan Bank (''Mortgage''), Gulf could secure its obligations under the Note and/or

Agreement with a series of its first mortgage bonds to be held by the Trustee as collateral (''Collateral Bonds''). The aggregate principal amount of the Collateral Bonds would be equal to the principal amount of the Revenue Bonds or to the principal amount plus interest payments thereon for a specified period.

Gulf also could cause an irrevocable letter of credit (''Letter of Credit'') to be delivered to the Trustee and/or have an insurance company issue a policy (''Policy'') to guarantee payment of the Revenue Bonds. Gulf may also provide to the County a subordinated security interest in the Project or other property of Gulf. In the event that Gulf is unable or determines not to issue the Collateral Bonds or provide for the Letter of Credit or the Policy, Gulf could guarantee payment of the principal or premium and interest on the Revenue Bonds.

With respect to the $400 million in Bonds and Stock, the Bonds would be issued pursuant to the Mortgage and sold for the best price obtainable but for a price to Gulf of not less than 98% nor more than 101 3/4% of the principal amount thereof, plus accrued interest, which could be an adjustable interest rate determined on a periodic basis or a fixed interest rate.

Gulf could enhance the marketability of the Bonds through an insurance policy to guarantee the payment when due of the Bonds. The Bonds and/or the Stock could be subject to a mandatory or optional cash sinking fund. With respect to the issuance of the Bonds and the Stock, Gulf requests Commission authorization for a deviation from the provisions of the Commission's Statement of Policy on First Mortgage Bonds and Preferred Stock.[1]

Gulf proposes to use the proceeds from the sale of the Bonds and the Stock to redeem or retire outstanding first mortgage bonds, pollution control bonds and/or preferred stock, or along with other funds, to pay a portion of its cash requirements to conduct its electric utility business.

GPU International, Inc., et al. (70–8971)

GPU International, Inc. (''GPU International''), formerly Energy Initiatives, Inc., and GPU Electric, Inc. (''GPU Electric''), formerly EI Energy, Inc., both non-utility subsidiaries of GPU, Inc. (''GPU''), a registered holding company, and both located at One Upper Pond Road, Parsippany, New Jersey 07054, have filed a declaration with the Commission pursuant to section 12(c) of the Act and rules 46 and 54 thereunder.

By orders of the Commission dated January 19, 1996 (HCAR No. 26457) and July 6, 1995 (HCAR No. 26326), GPU was authorized to acquire GPU Electric for the purpose of acquiring one or more exempt wholesale generators (''EWGs'') and/or foreign utility companies (''FUCOs'') (collectively ''Exempt Entities'').

Bt order of the Commission dated November 16, 1995 (HCAR No. 26409), June 14, 1995 (HCAR No. 26307), September 12, 1994 (HCAR No. 26205), December 18, 1994 (HCAR No. 25715 and June 26, 1990 (HCAR No. 26409), GPU International was authorized to (i) engage in preliminary project development activities in connection with its investments in qualifying facilities as defined in the Public Utility Regulatory Policies Act of 1978, as amended, and Exempt Entities, and (ii) acquire the securities of Exempt Entities.

GPU International and GPU Electric propose that they be authorized to declare and pay dividends to GPU out of capital and unearned surplus from time to time through December 31, 2001. They state that all dividends would be declared and paid only in compliance with applicable law of their respective jurisdictions of organization and loan covenants.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–1820 Filed 1–24–97; 8:45 am]

BILLING CODE 8010–01–M

[1] Holding Co. Act Release No. 13105 (Feb. 16, 1969), amended, Holding Co. Act Release No. 16369 (May 8, 1969); Holding Co. Act Release No. 13105 (Feb. 16, 1969), amended, Holding Co. Act Release No. 16758 (June 22, 1970).

[Release No. 34–38182; File No. SR–BSE–96–13]

Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change by the Boston Stock Exchange, Inc. Relating to Its Specialist Performance Evaluation Program

January 17, 1997.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on January 6, 1997,[3] the Boston Stock Exchange, Inc. (''BSE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons and to grant accelerated approval to the proposed rule change.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The BSE seeks a twelve-month extension of its Specialist Performance Evaluation Program (''SPEP'').[4]

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item III below. The self-regulatory organization has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to request an extension of the Exchange's SPEP pilot program. The evaluation program, using the BEACON

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] On January 6 and January 10, 1997, the BSE filed Amendment Nos. 1 and 2, respectively, with the Commission, the substance of which have been incorporated into this notice.

[4] The Commission initially approved the BSE's SPEP pilot program in Securities Exchange Act Release No. 22993 (March 10, 1986), 51 FR 8298 (March 14, 1986) (File No. SR–BSE–84–04). The Commission subsequently extended the pilot program in Securities Exchange Act Release Nos. 26162 (October 6, 1988), 53 FR 40301 (October 14, 1988) (File No. SR–BSE–87–06); 27656 (January 30, 1990), 55 FR 4296 (February 7, 1990) (File No. SR–BSE–90–01); 28919 (February 26, 1991), 56 FR 9990 (March 8, 1991) (File No. SR–BSE–91–01); and 30401 (February 24, 1992), 57 FR 7413 (March 2, 1992) (File No. SR–BSE–92–01). The BSE was permitted to incorporate objective measures of specialist performance into its pilot program in Securities Exchange Act Release No. 31890 (February 19, 1993), 58 FR 11647 (February 26, 1993) (File No. SR–BSE–92–04) (''February 1993 Approval Order''), at which point the initial pilot program ceased to exit as a separate program. The current pilot program was subsequently extended in Securities Exchange Act Release Nos. 33341, (December 15, 1993) 58 FR 67875 (December 22, 1993) (''December 1993 Approval Order''); 35187 (December 30, 1994), 60 FR 2406 (January 9, 1995); and 36668 (January 2, 1996), 61 FR 672 (January 9, 1996) (January 1996 Approval Order) (Pilot extended until December 31, 1996).

system,[5] looks at all incoming orders routed to a specialist for execution. A record of all action on these orders is accumulated in a separate file from which four calculations are run.

Section criteria for eligible orders include regular buy and sell market and marketable limit orders only. Orders marked buy minus or sell plus are excluded, as are crosses and all orders with qualifiers (*e.q.,* market-on-close, stop, stop limit, all or none, etc.). The order entry date must equal the order execution date.

For each of the measures, including the Specialist Performance Evaluation Questionnaire (''SPEQ''), a ten point scale will be applied to a range of scores. Based on the raw score for each measure, the respective specialist will receive an associated score between one and ten points, which will be weighted as indicated for each measure.

The first measure is Turnaround Time, which calculates the average number of seconds for all eligible orders based on the number of seconds between the receipt of a guaranteed market or marketable limit order in BEACON (*i.e.,* for 1299 shares or less) and the execution, partial execution, stopping or cancellation of the order. An order that is moved from the auto-ex screen to the manual screen will accumulate time until executed, partially executed, stopped or cancelled. This calculation will not be in effect until the individual stock has opened on the primary market. Certain situations, such as trading halts and periods where the BEACON system is off auto-ex floorwide, will result in blocks of time being excluded from the calculation. A specialist who averaged a raw score of twenty-five (25) seconds will receive seven points because it falls in the twenty-one (21) to twenty-five (25) second range. This calculation will comprise 20% of the overall evaluation program.

TURNAROUND TIME

Time in seconds	Points
1–10	10
11–15	9
16–20	8
21–25	7
26–30	6
31–35	5
36–40	4
41–45	3

TURNAROUND TIME—Continued

Time in seconds	Points
46–50	2
51 and up	1

The second measure is Holding Orders Without Action, which measures the number of market and marketable limit orders (all sizes included)[6] that are held without action for greater than twenty-five (25) seconds. As in the Turnaround Time calculation, a stop, cancellation, execution or partial execution stops the clock. The same exclusions which apply in the Turnaround Time calculation also apply here.[7] Thus, if a specialist receives a total of 100 market and marketable limit orders and holds ten of them for more than twenty-five seconds, his or her raw score of 10% would receive nine points as it falls in the six to ten percent range. This calculation will comprise 5% of the overall evaluation program.

HOLDING ORDERS WITHOUT ACTION

Percentage of orders	Points
0–5	10
6–10	9
11–15	8
16–20	7
21–25	6
26–30	5
31–35	4
36–40	3
41–45	2
46 and up	1

This third measure is Trading Between the Quote, which measures the number of market and marketable limit orders that are executed between the best consolidated bid and offer where the spread is greater than ⅛th. Thus, if a specialist receives ten market and marketable limit orders where the spread between the best consolidated bid and offer is greater than ⅛th, and such specialist executes five of the orders between the bid and offer, his or her raw score would be 50% and would receive nine points as it falls in the 46 to 50 percent range. This calculation will comprise 35% of the overall evaluation program.

TRADING BETWEEN THE QUOTE

Percentage of orders	Points
51 and up	10
46–50	9
41–45	8
36–40	7
31–35	6
26–30	5
21–25	4
16–20	3
11–15	2
0–10	1

The fourth measure is Executions in Size Greater than BBO, which measures the number of market and marketable limit orders which exceed the BBO size and are executed in a size larger than the BBO size. Thus, if a specialist receives a total of ten market and marketable limit orders which exceed the BBO size and executes nine of the orders in sizes larger than the BBO size, his or her raw score would be 90% and would receive eight points as it falls in the 86 to 90 percent range. This calculation will comprise 35% of the overall evaluation program.

EXECUTIONS IN SIZE GREATER THAN BBO

Percentage of orders	Points
96–100	10
91–95	9
86–90	8
81–85	7
76–80	6
71–75	5
66–70	4
61–65	3
56–50	2
55 and below	1

The fifth measure is the SPEQ.[8] The minimum acceptable raw score for each question is 4.5. Thus, if a specialist receives a raw score of 4.5 for each question for a weighted raw score (based on the weights for each question within the questionnaire) of 50.0052, he or she would receive four points as it falls in the 50 to 54 weighted score range. The questionnaire will comprise 5% of the overall evaluation program.

QUESTIONNAIRE

Weighted raw score	Points
83 and above	10
77–82	9
72–76	8
66–71	7

[5] BEACON is the BSE's automated order-routing and execution system. BEACON provides a guarantee of execution for market and marketable limit orders up to and including 1,299 shares. In addition, BEACON can be used to transmit orders not subject to automatic execution. *See* BSE Rules, Ch. XXXIII, §§ 2654–55.

[6] Unlike Turnaround Time, Holding Orders Without Action is not limited to those orders guaranteed automatic execution through BEACON.

[7] The Holding Orders Without Action calculation will not be in effect until the individual stock has opened on the primary market. In addition, certain situations, such as trading halts and periods where the BEACON system is off auto-ex floorwide, will result in blocks of time being excluded from the Holding Orders Without Action calculation. *See* December 1993 Approval Order.

[8] Several changes were made to the SPEQ in view of the adoption of the objective measures which have made some questions obsolete. *See* the January 1996 Approval Order.

QUESTIONNAIRE—Continued

Weighted raw score	Points
61–65	6
55–60	5
50–54	4
44–49	3
38–43	2
37 and below	1

Using the examples from each measure above, the following weighted point totals would result in an overall program score of 8.0:

Measure	Points	Weighted points
Turnaround Time (20%)	7	1.40
Holding Orders Without Action (5%)	9	0.45
Trading Between the Quote (35%)	9	3.15
Executions in Size ≤ BBO (35%)	8	2.80
Questionnaire (5%)	4	0.20
		8.00

Any specialist who is deficient [9] in any one of the objective measures for any review period will be required to appear before the Performance Improvement Action Committee (''PIAC'') to discuss ways of improving performance. If performance does not improve in the subsequent period, the specialist will appear before the Market Performance Committee (''MPC'') for appropriate action, as described below.[10]

Any specialist who falls below the threshold level for the overall evaluation program for any review period will be required to appear before the MPC, which will take action to address the deficient performance as provided for in the Supplemental Material to the SPEP.[11] A specialist who is ranked in the bottom 10% of the overall evaluation program but who is above the threshold level for the overall program will be subject to staff review to determine if there is sufficient reason to warrant informing the PIAC of potential performance problems.

The following threshold scores have been set at which a specialist will be deemed to have adequately performed: [12]

Overall Evaluation Score—at or above weighted score of 6.70
Turnaround Time—below 21.0 seconds (8 points)
Holding Orders Without Action—below 21.0% (7 points)
Trading Between the Quote—at or above 31.0% (6 points)
Executions in Size > BBO—at or above 81.0% (7 points)
Questionnaire—at or above weighted score of 50.0 (4 points)

Due to the subjectiveness of the questionnaire, a specialist who is deficient on the questionnaire alone will be subject to review by Exchange staff to determine if there is sufficient reason to warrant informing the PIAC of potential performance problems. However, a deficient score on the questionnaire may result in a performance improvement action when it lowers the overall program score below 6.70.

The Exchange requests an extension of the current pilot program through December 31, 1997. This approximate twelve-month period will enable the Exchange to further evaluate the appropriateness of the measures and their respective weights, as well as the effectiveness of the overall evaluation program.

2. Statutory Basis

Section 6(b)(5) of the Act [13] is the basis of the proposed rule change in that the SPEP results weigh heavily in stock allocation decisions and, as a result, specialists are encouraged to improve their market quality and administrative duties, thereby promoting just and equitable principles of trade and aiding in the perfection of a free and open market and a national market system.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Other

No written comments were either solicited or received.

III. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provision of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No. SR–BSE–96–13 and should be submitted by February 18, 1997.

IV. Commission's Findings and Order Granting Accelerated Approval of Proposed Rule Change

The Commission believes that specialists play a crucial role in providing stability, liquidity, and continuity to the trading of stocks. Among the obligations imposed upon specialists by the Exchange, and by the Act and the rules promulgated thereunder, is the maintenance of fair and orderly markets in their designated securities.[14] To ensure that specialists fulfill these obligations, it is important that the Exchange conduct effective oversight of their performance. The BSE's SPEP is critical to this oversight.

In its 1993 order approving the incorporation of objective measures of performance,[15] the Commission asked the Exchange to monitor the effectiveness of the amended SPEP. Specifically, the Commission requested information about the number of specialists who fell below acceptable levels of performance for each objective measure, the questionnaire and the overall program; and about the specific measures in which each such specialist was deficient. The Commission also requested information about the number of specialists who, as a result of each condition for review, were referred to the PIAC and/or the MPC; and about the type of action taken with respect to each such deficient specialist. In September

[9] A specialist is deficient in any measure if he or she scores below the minimum adequate performance thresholds set forth below. *See infra* text accompanying note 10.

[10] The SEC notes that, in the event a specialist's performance does not improve, the Supplemental Material to the SPEP authorizes the MPC to take the following actions: suspending the specialist's trading account privilege, suspending his or her alternate specialist account privilege, or reallocating his or her specialty stocks. *See* BSE Rules, Ch. XV, ¶ 2156.10–2156.60.

[11] *See supra* note 8.

[12] A specialist who receives a score that is below a minimum adequate performance threshold will be deemed to be deficient in that measure. *See supra* note 7.

[13] 15 U.S.C. 78f(b)(5).

[14] Rule 11b–1, 17 CFR 240.11b–1; BSE Rules Ch. XV, ¶ 2155.01.

[15] For a description of the Commission's rationale for approving the incorporation of objective measures of performance into the BSE's SPEP on a pilot basis, see February 1993 Approval Order, *supra* note 3. The discussion in the aforementioned order is incorporated by reference into this order.

1993, October 1994, December 1995 and January 1997, the BSE submitted to the Commission monitoring reports regarding its amended SPEP. The reports describe the BSE's experience with the pilot program during 1993, 1994, 1994 and the first two periods of 1996.

In its January 1996 Approval Order extending the pilot program, the Commission set forth concerns with the pilot program. The Commission reviewed the BSE's experience with its minimum adequate performance thresholds and noted that the acceptable levels of performance had not been revised since the beginning of the pilot and should be reviewed. The Commission also stated that taking the SPEP as a whole, most potential performance problems needed to be brought to the attention of the appropriate committee and that the BSE should examine its SPEP to ensure that adequate corrective actions are taken with respect to each deficient specialist. The BSE addressed these concerns and certain changes to the SPEP were approved by the Commission, as discussed in more detail below. However, the Commission believes that the Exchange should continue to monitor these concerns.

In terms of the overall scope of the SPEP, the Commission continues to believe that objective measures, together with a floor broker questionnaire, should generate sufficiently detailed information to enable the Exchange to make accurate assessments of specialist performance. In this regard, the objective criteria have been useful in identifying how well specialist carry out certain aspects (*i.e.*, timeliness of execution, price improvement and market depth) of their responsibilities as specialists. In conclusion, although the Commission believes the BSE should evaluate means to strengthen its performance oversight program, the pilot has been a positive first step towards developing a more effective SPEP. Accordingly, the Commission believes that it is appropriate to extend the pilot program for an approximate twelve-month period, expiring December 31, 1997.

This period will allow the Exchange to respond to the Commission's continuing concerns about the SPEP. First, the Commission expects the BSE to continue to evaluate the incorporation of additional objective criteria,[16] so that the Exchange can conduct a thorough analysis of specialist performance.[17] At the same time, the BSE should continue to assess whether each measure, as well as the questionnaire, is assigned an appropriate weight.[18] In addition, the Commission expects the Exchange to continue to conduct an on-going examination of its minimum adequate performance thresholds, in order to ensure that they continue to be set at appropriate levels.[19] The Commission also continues to believe that relative performance rankings that subject the bottom 10% of all specialist units to review by an Exchange committee are an important part of an effective evaluation program. The BSE should continue to closely monitor the conditions for review and should take steps to ensure that all specialists whose performance is deficient and/or diverges widely from the best units will be subject to meaningful review. In the Commission's opinion, a meaningful review process would ensure that adequate corrective actions are taken with respect to each deficient specialist.[20] The Commission would have difficulty granting permanent approval to a SPEP that did not include a satisfactory response to the concerns described above.

The Commission therefore requests that the BSE submit a report to the Commission, by September 17, 1997, describing its experience with the pilot. At a minimum, this report should contain data, for the last review period of 1996 and the first two review periods of 1997, on (1) the number of specialists who fell below acceptable levels of performance for each objective measure,[21] the questionnaire and the overall program, and the specific measures in which each such specialist was deficient; (2) the number of specialists who, as a result of the objective measures, appeared before the PIAC for informal counseling; (3) the number of such specialists then referred to the MPC and the type of action taken; (4) the number of specialists who, as a result of the overall program, appeared before the MPC and the type of action taken; (5) the number of specialists who, as a result of the questionnaire or falling in the bottom 10% were referred by the Exchange staff to the PIAC and the type of action taken (this should include the number of specialists then referred to the MPC and the type of action taken by that Committee); and (6) a list of stocks reallocated due to substandard performance and the particular unit involved. The report also should discuss the specific action taken by the BSE to develop additional objective measures and address the other concerns noted above. Any requests to modify this pilot, to extend its effectiveness or to seek permanent approval for the SPEP should be submitted to the Commission by September 17, 1997, as a proposed rule change pursuant to Section 19(b) of the Act.

For the reasons discussed above, the Commission finds that the BSE's proposal to extend its SPEP pilot program until December 31, 1997 is consistent with the requirements of Sections 6 and 11 of the Act and the rules and regulations thereunder applicable to a national securities exchange. Specifically, the Commission finds that the proposed rule change is consistent with the Section 6(b)(5)[22] requirement that the rules of the

[16] The Commission notes that in a previous rule change proposal, the Exchange stated it was currently engaged in an effort to develop other measures of performance for inclusion in the SPEP and hoped to file for modification to the program in the near future. *See* Securities Exchange Act Release No. 37581 (August 19, 1996), 61 FR 43797 (August 26, 1996) (August 1996 Release). No new objective performance measures have been added at this time.

[17] For example, the BSE could develop additional measures of market depth, such as how often the specialist's quote exceeds 500 shares or how often the BSE quote, in size, is larger than the BBO (excluding quotes for 100 shares). Another possible objective criteria could measure quote performance (*i.e.*, how often the BSE specialist's quote, in price, is alone at or tied with the BBO).

[18] The Commission had recommended in its January 1996 Approval Order that the BSE consider either having only one measure out of the Turnaround Time and Holding Orders Without Action categories or reducing the weights of the existing measures, which together accounted for 30% of the current SPEP, because of the substantial overlap between those two measures. In response to this recommendation, the BSE did reduce the weights of these two measures to 25% of the overall program. In addition, the decrease in these two categories, as well as a decrease in the weight of the SPEQ to 5%, enabled the Exchange to increase the weight of each of the other objective criteria from 25% to 35%. *See* August 1996 Release.

[19] In response to this recommendation, which was also included in the January 1996 Approval Order, the BSE revised some of the minimum adequate performance levels. The revised levels provide a higher benchmark for acceptable specialist performance on the Exchange, which in turn benefits the execution of public orders on the BSE and further the protection of investors. *See* August 1996 Release.

[20] In response to these comments, the BSE revised its review process by tightening the standards for committee review for substandard specialist performance both in the overall program and in individual measures. The criteria for PIAC review for substandard performance in any one objective measure was reduced from two out of three consecutive review periods to any one review period. The criteria for MPC review of substandard performance in any one objective measure was reduced from three out of four consecutive review periods to two out of three consecutive review periods, while MPC review for substandard overall performance was reduced from two out of three consecutive review periods to any one review period. *See* August 1996 Release.

[21] For each objective measure, the Commission also requests that the BSE provide the mean and median scores.

[22] 15 U.S.C. 78f(b)(5).

Exchange be designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

Further, the Commission finds that the proposal is consistent with Section 11(b) of the Act [23] and Rule 11b–1 thereunder [24] which allow securities exchanges to promulgate rules relating to specialists in order to maintain fair and orderly markets and to remove impediments to and perfect the mechanism of a national market system.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice thereof in the Federal Register. This will permit the pilot program to continue and allow the BSE time to consider improvements to its program. In addition, the rule change that implemented the pilot program was published in the Federal Register for the full comment period, and no comments were received.[25] Accordingly, the Commission believes that it is consistent with the Act to accelerate approval of the proposed rule change.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act [26] that the proposed rule change (File No. SR–BSE–96–13) is hereby approved on a pilot basis until December 31, 1997.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[27]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–1818 Filed 1–24–97; 8:45 am]

BILLING CODE 8010–01–M

[23] 15 U.S.C. 78k(b).

[23] 17 CFR 240.11b–1.

[25] *See* February 1993 Approval Order, *supra* note 3.

[26] 15 U.S.C. 78s(b)(2).

[27] 17 CFR 200.30–3(a)(12).

[Release No. 34–38185; File No. SR–NASD–97–01]

Self-Regulatory Organizations; National Association of Securities Dealers, Inc.; Order Granting Accelerated Partial Temporary Approval of Proposed Rule Change Relating to Entry of Certain SelectNet Orders

January 21, 1997.

I. Introduction

On January 8, 1997, the National Association of Securities Dealers, Inc. (''NASD'' or ''Association'') filed with the Securities and Exchange Commission (''Commission'' or ''SEC'') pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder [2] a proposed rule change to clarify members' obligations regarding the use of the SelectNet Service as it will operate under the Commission's new limit order display rule, Rule 11Ac1–4 (''Display Rule'') and amendments to Rule 11Ac1–(c)(5) (''ECN Amendment''). The proposed rule change was published for comment in Securities Exchange Act Release No. 38149 (January 10, 1996), 62 FR 1942 (January 14, 1997) (''Notice of Proposed Rule Change''). This order temporarily approves the proposed rule change, in part, on an accelerated basis.

II. Description of the Proposal

The NASD has proposed a new Conduct Rule to prohibit members from cancelling or attempting to cancel a broadcast or preferenced order entered into SelectNet until a minimum period of ten seconds has elapsed, and to prohibit the entry of a preferenced order to electronic communications networks that have conditions regarding responses to the order.[3]

III. Discussion

In August 1996, the Commission adopted a new rule and amendments to an existing rule that went into effect on January 20, 1997.[4] Upon commencement of the Order Execution Rules, over-the-counter (''OTC'') market makers began representing certain customer limit orders in their quotations in manner significantly different from previously. Moreover, under an amendment to the Quote Rule, electronic communications networks (''ECNs'') began entering quotations in the Nasdaq Stock Market in a manner which heretofore was reserved for registered market makers.[5]

To facilitate the ECN Display Alternative envisioned by the Order Execution Rules, Nasdaq has established linkages with four ECNs,[6] which provide these ECNs a means to display their best market makers' and specialists' quotes and certain customer quotes in the Nasdaq system.[7] A critical portion of Nasdaq's linkage mechanism involves Nasdaq's SelectNet Service (''SelectNet''). The SelectNet linkage allows NASD members that are not subscribers to a particular ECN to access the ECN's orders that are being displayed in the Nasdaq quote montage via a preferenced order in SelectNet directed to a particular ECN at its displayed price.[8]

Each ECN is required, pursuant to an Agreement signed with Nasdaq and conditions of letters from Commission staff recognizing the ECN as a Display Alternative, to have an automated system designed to respond to a preferenced order received via SelectNet within a few seconds. Consequently, the ECN has only seconds to accept a preferenced order, send the Nasdaq processor an acknowledgement that the order has been accepted, and notify its customer of the order's execution. Although an ECN, upon accepting a preferenced order, notifies its customer of an execution obtained via SelectNet, the execution does not actually occur when the ECN accepts the order but rather when the Nasdaq system processor receives the ECN acknowledgement that it has accepted the order. During the time the Nasdaq

[1] 15 U.S.C. 78s (b)(1).

[2] 17 CFR 240.19b–4.

[3] Rule 3380 is proposed to read (a) Cancellation of a Select Net Order: No member shall cancel or attempt to cancel an order, whether preferenced to a specific market maker or electronic communications network, or broadcast to all available members, until a minimum time period of ten seconds has expired after the order to be cancelled was entered. Such ten second time period shall be measured by the Nasdaq processing system processing the SelectNet order; (b) Prohibition Regarding The Entry of Conditional Orders: No member shall enter an order into SelectNet that is preferenced to an electronic communications network covered by Rule 4623 that has any conditions regarding responses to the order, e.g., preferenced SelectNet orders sent to an electronic communications networks shall not be all or none, or subject to minimum execution size above a normal unit of trading, or deemed non-negotiable.

[4] See Securities Exchange Act Release No. 37619A (September 6, 1996), 61 FR 48290 (September 12, 1996) adopting Rule 11Ac1–4 (''Limit Order Display Rule'') and amendments to Rule 11Ac1–1 (''Quote Rule'') (collectively the ''Order Execution Rules''). See also Securities Exchange Act Release Nos. 38110 (January 2, 1997), 62 FR 1279 (January 9, 1997) (revising the effective date of the Order Execution Rules to January 13, 1997); and 38139 (January 8, 1997) (revising the effective of the Order Execution Rules until January 20, 1997).

[5] Rule 11Ac1–1(c)(5) requires a market maker to display in its quote any better priced order the market maker places into an electronic communications network (''ECN Amendment''). Alternatively, the ECN Amendment provides an exception to the market maker's display obligation that depends upon the ECN itself displaying into the consolidated system the best-priced orders entered therein by a market maker or specialist, and allowing brokers and dealers to access such orders (''ECN Display Alternative'').

[6] The four ECNs are B-Trade; Instinet; Island; and Terra Nova.

[7] ECNs must provide the best prices and sizes that market makers and specialists have entered in the ECN to the public quotation system for inclusion in the consolidated quotation. See Order Execution Rules Adopting Release at 121.

[8] See Order Execution Rules Adopting Release at 121, noting that the ability of nonsubscribers to access market makers' and specialists' orders entered into an ECN is a fundamental requirement of the ECN Display Alternative.

processor is awaiting the ECN's acknowledgement, Nasdaq could presently receive a cancellation message from the broker-dealer that sent the preferenced order to the ECN. This will result in the Nasdaq processor accepting a cancellation message that was first in time and rejecting the ECN's acknowledgment message. Consequently, the ECN would be exposed to executions to its counterpart when the SelectNet order is cancelled.

The Commission believes that it is important for the operation of the SelectNet linkage with ECNs and the ECN Display Alternative that ECNs have a reasonable opportunity to respond to orders preferenced through SelectNet before the orders are cancelled. Because of the structure of the linkage as currently designed, ECNs are potentially exposed to internal customer executions when a cancellation of a SelectNet order occurs. The Commission notes that, on the first day of the Order Execution Rules, there were instances where ECNs experienced delays due to the acceptance of SelectNet preferenced orders that were immediately cancelled. Moreover, the cancellation of SelectNet orders immediately after entry creates significant additional message traffic that can potentially slow the linkage. With respect to SelectNet orders not using the ECN linkage, the Commission also notes that SelectNet orders preferenced to a particular market maker as a practical matter need to be accessible for a minimal length of time in order for responses to be generated by that market maker. Otherwise, if the order may be in the process of being cancelled, market makers will have less incentive to attempt to accept SelectNet orders directed to them. The Commission believes it is important that ECNs, as well as market makers, have a reasonable basis to conclude that when they accept a preferenced order it will not be cancelled during the transmission of their response. Therefore, the Commission is approving the proposal for preferenced SelectNet orders on a temporary basis, until July 1, 1997, to evaluate the effects of the proposal on ECNs, market makers, and order entry firms.

In addition to preferenced orders, orders that are sent to ECNs with conditions imposed also create response difficulties on the part of ECNs.[9] Therefore, Nasdaq has proposed to prohibit members from entering conditional orders into SelectNet when the orders are preferenced to an ECN.[10] The Commission recognizes that conditional preferenced orders involve difficult programming issues in electronic trading systems. As a result, the ECNs have been unable to modify their systems in preparation for the SelectNet linkage to accept conditional orders via SelectNet. Nonetheless, conditional orders are being routed to ECNs through the linkage, and these orders are subsequently being rejected, causing confusion and unnecessary message traffic. The Commission believes that prohibiting members from preferencing conditional orders to ECNs will eliminate impediments to the operation of the linkage with ECNs. Accordingly, the Commission is temporarily approving proposed Rule 3380(b) until July 1, 1997, to reduce the immediate impact of these orders to the linkage and allow the Commission to better evaluate the impact of the proposal before considering the rule change on a permanent basis.

For the foregoing reasons, the Commission finds that the proposed rule change is consistent with the Act and the rules and regulations thereunder applicable to the NASD, and in particular Sections 15A(b)(6), 15A(b)(9), and 15A(b)(11). In addition, the Commission finds that the rule change is consistent with the Congressional objectives for the National Market System, set out in Section 11A of the Exchange Act, of achieving more efficient and effective market operations, fair competition among brokers and dealers, and the economically efficient execution of investor orders in the best market. The Commission further believes that allowing preferenced orders to be entered into SelectNet and immediately cancelled impedes the operation of the Order Execution Rules, specifically the ECN Display Alternative. Accordingly, the Commission finds good cause for approving the proposed rule change, in part, on a temporary basis until July 1, 1997, prior to the thirtieth day after date of publication of notice of filing thereof in the Federal Register.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[11] that the proposed rule change (NASD–97–01) be and hereby is approved on a temporary basis, in part, effective January 21, 1997, until July 1, 1997.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[12]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–1868 Filed 1–24–97; 8:45 am]

BILLING CODE 8010–01–M

[9] The Commission recently approved an NASD Rule change to prohibit the entry of all-or-none orders in the Small Order Execution System. See Securities Exchange Act Release No. 38156.

[10] For example, an all or none order, an order subject to a minimum execution size above a normal unit or trading, or an order deemed non-negotiable.

[11] 15 U.S.C. 78s(b)(2)(1998).

[12] 17 CFR 200.30–3(a)(12) (1996).

TENNESSEE VALLEY AUTHORITY

Paperwork Reduction Act of 1995, as Amended by P.L. 104–13; Proposed Collection; Comment Request

AGENCY: Tennessee Valley Authority.

ACTION: Proposed collection; comment request.

SUMMARY: The proposed information collection described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended). The Tennessee Valley Authority is soliciting public comments concerning OMB approval of this proposed collection as provided by 5 CFR Section 1320.8(d)(1). Requests for additional information should be directed to the Acting Agency Clearance Officer: Wilma H. McCauley, Tennessee Valley Authority, 1101 Market Street (WR 4Q), Chattanooga, Tennessee 37402–2801; (423) 751–2523; FAX: (423) 751–3400; E-mail: whmccauley@TVA.gov.

DATES: Comments should be sent to the Acting Agency Clearance Officer no later than March 28, 1997.

SUPPLEMENTARY INFORMATION: The Tennessee Valley Authority is soliciting comments concerning OMB approval of a three-year generic clearance for customer surveys designed to determine customer demographics, preferences, satisfaction, and feedback.

I. Background

In order to comply with the customer consultation requirements of the Government Performance and Results Act of 1993 and to ensure that we are meeting customer requirements and expectations, TVA must conduct periodic customer surveys to determine preferences, satisfaction, solicit feedback and confirm demographics.

II. Current Actions

TVA plans to request OMB approval for a generic clearance for an undefined number of surveys to be conducted over the next three years. For each study that TVA undertakes under this generic clearance, OMB will be notified, at least

two weeks in advance, and provided with an information copy of the questionnaire (if one is used), and all other materials describing the survey activity. TVA plans to conduct a variety of voluntary customer surveys of our electricity generation customers and our appropriated program customers. These surveys may include web-site questionnaires, written surveys, telephone surveys, individual face-to-face interviews, focus group meetings, and/or large group studies. They will be designed to gather information from a customer's perspective as prescribed in Executive Order 12862, Setting Customer Service Standards, September 11, 1993. The results will be used as part of an ongoing process to improve TVA's performance.

III. Estimate of Burden

The average burden per response is estimated to range from 2 minutes for a web-site questionnaire to 3 hours for a large group study. TVA estimates 4,000 annual respondents for a total of 1350 hours annually for the proposed generic customer survey clearance.

IV. Request for Comments

Comments are invited on:

(a) Whether the proposed information collection is necessary for the proper performance of the functions of the agency, including whether the information has practical utility;

(b) The accuracy of TVA's estimate of the burden of the collection of the information;

(c) Ways to enhance the quality, utility, and clarity of the information to be collected, and

(d) Ways to minimize the burden related to the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of the form. They also will become a matter of public record.

William S. Moore,

Senior Manager, Administrative Services.

[FR Doc. 97–1910 Filed 1–24–97; 8:45 am]

BILLING CODE 8120–08–M

Sunshine Act; Meeting

AGENCY HOLDING THE MEETING: Tennessee Valley Authority (Meeting No. 1491).

TIME AND DATE: 10 a.m. (EST), January 29, 1997.

PLACE: TVA Chattanooga Office Complex Auditorium, 1101 Market Street, Chattanooga, Tennessee.

STATUS: Open.

Agenda

Approval of minutes of meeting held on November 20, 1996.

New Business

B—Purchase Award

B1. Contracts with Consolidated Freightways and Milan Express Company, Inc., to provide less-than-truckload motor freight transportation service for all TVA locations.

E—Real Property Transactions

E1. Muscle Shoals/Wilson Dam Reservations Land Use Plan.

E2. Sale of five noncommercial, nonexclusive permanent easements affecting 0.6 acre of land on Tellico Lake in Loudon County, Tennessee (Tract No. XTELR–183RE, –186RE, –187RE, –190RE, and –192RE).

E3. Amendment to Nickajack Reservoir Land Management Plan to modify the allocated use of public recreation on Little Cedar Mountain in Marion County, Tennessee (Tract No. XNJR–3PT) to allow commercial recreation and residential development on 701 acres and change the allocated use from industrial development to wildlife management on a 498-acre portion of Tract No. XNJR–1PT.

E4. Deed modification affecting approximately 49.8 acres of former TVA land on Guntersville Lake in Marshall County, Alabama (Tract No. XGR–651), to allow the Hunstville YMCA to sell the acreage for residential development.

E5. Modification of a restrictive covenant and easement affecting approximately 0.57 acre on Chickamauga Lake in Rhea County, Tennessee (Tract No. XCR–186), to permit the construction of buildings and other structures.

E6. Abandonment of easement rights affecting approximately 19.4 acres over certain portions of the Shelbyville-Unionville 46–kV Transmission Line right-of-way in Bedford County, Tennessee (Tract Nos. SHUR–1, SU–2, –3, –4, –5, –6, –48, –49, –50, and –51).

E7. Public auction sale of Corinth, Mississippi, Crew Quarters affecting approximately 2.5 acres (Tract No. XCLCH–1).

E8. Sale of a permanent easement to the State of Tennessee for a highway improvement project affecting approximately 0.41 acre of Great Falls Reservoir Property in Van Buren County, Tennessee (Tract No. XGFR–35H).

Information Items

1. Approval to withhold proposals submitted in response to a Government solicitation unless the proposal sought is the one submitted by the successful bidder and the proposal has become part of the resulting contract.
2. Sale of permanent easements and temporary construction easements to the City of Memphis, Tennessee, affecting 1.16 acres of Allen Fossil Plant property (Tract Nos. XALSP–4E and –5U).
3. Nineteen-Year commercial recreation lease to South Sauty Creek Resort, Inc. affecting approximately 80 acres on Guntersville Lake in Marshall County, Alabama (Tract No. XTGR–163L).
4. Option to allow interruptible power consumers to purchase capacity to help avoid suspensions.
5. Public auction sale of 1.65 acres on Wheeler Lake in Morgan County, Alabama (Tract No. XWR–626).
6. Sewerline and waterline easements for Cooper Communities, Inc.; Tellico Area Services System; and Monroe County, Tennessee (Tract Nos. XTELR–188S and XTTELR–34WL).
7. Approval of resolutions relating to the sale of Tennessee Valley Power Bonds.

For more information: Please call TVA Public Relations at (412) 632–6000, Knoxville, Tennessee. Information is also available at TVA's Washington Office (202) 898–2999.

Dated: January 22, 1997.

Edward S. Christenbury,

General Counsel and Secretary.

[FR Doc. 97–1997 Filed 1–23–97; 11:03 am]

BILLING CODE 8120–08–M

DEPARTMENT OF TRANSPORTATION

Aviation Proceedings; Agreements Filed During the Week Ending 1/17/97

The following Agreements were filed with the Department of Transportation under the provisions of 49 U.S.C 412 and 414. Answers may be filed within 21 days of date of filing.

Docket Number: OST–97–2060.
Date filed: January 13, 1997.
Parties: Members of the International Air Transport Association.
Subject: PTC12 Telex Mail vote 847, Canada-Europe fare seasonalities, r–1 071q r–2 076jj r–3–078c, Intended effective date: January 23, 1997.

Docket Number: OST–97–2078.
Date filed: January 17, 1997.
Parties: Members of the International Air Transport Association.
Subject: CTC2 EUR 0003 dated December 18, 1996, Mail Vote 846 r1–7, Amendments/Correction to Mail Vote, Intended effective date: July 31, 1997.

Docket Number: OST–97–2079.
Date filed: January 17, 1997.
Parties: Members of the International Air Transport Association.
Subject: PTC23 ME–TC3 0010 dated November 22, 1996, Middle East–TC3 Resos r1–46, (A summary is attached. Minutes are contained in PTC23, ME–TC3 0007 in Docket OST–96–1985), Intended effective date: April 1, 1997.

Docket Number: OST–97–2080.
Date filed: January 17, 1997.
Parties: Members of the International Air Transport Association.
Subject: PTC3 0035 dated December 10, 1997 r1, PTC3 0036 dated December 10, 1997 r2–6, PTC3 0037 dated

December 10, 1997 r7, PTC3 0038 dated December 10, 1997 r8, PTC3 0039 dated December 10, 1997 r9–11, PTC3 0040 dated December 10, 1997 r12–13, PTC3 0041 dated December 10, 1997 r14–16, PTC3 0043 dated December 10, 1997 r–17 (Summary attached.) Intended effective date: February 1/March 1, 1997.

Myrna F. Adams,

Acting Chief, Documentary Services.

[FR Doc. 97–1883 Filed 1–24–97; 8:45 am]

BILLING CODE 4910–62–P

Notice of Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q During the Week Ending January 17, 1997

The following Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits were filed under Subpart Q of the Department of Transportation's Procedural Regulations (See 14 CFR 302.1701 *et. seq.*). The due date for Answers, Conforming Applications, or Motions to modify Scope are set forth below for each application. Following the Answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Docket Number: OST–97–2063.

Date filed: January 13, 1997.

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: February 10, 1997.

Description: Application of LTU Lufttransport-Unternehmen GmbH. & Co. KG., pursuant to 49 U.S.C. Section 41304 and Subpart Q of the Regulations, request an Amendment of its Foreign Air Carrier Permit, to authorize it to perform scheduled air transportation from points behind Germany via Germany and intermediate points to a point or points in the United States and beyond and charter air transportation (1) between any point or points in Germany and any point or points in the United States and (2) between any point or points in the United States and any point or points in third countries, in accordance with the 1955 Agreement as amended by the 1996 Protocol, and to provide such other and further relief as the Department may deem proper.

Docket Number: OST–97–2066.

Date filed: January 13, 1997.

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: February 10, 1997.

Description: Application of LTU Lufttransport Unternehmen SUD GmbH. & Co. Fluggesellschaft, pursuant to 49 U.S.C. Section 41304 and Subpart Q of the Regulations, applies for an Amendment to its Foreign Air Carrier Permit to authorize it to perform charter air transportation (1) between any point or points in Germany and any point or points in the United States and (2) between any point or points in the United States and any point or points in third countries, in accordance with the 1955 Agreement as amended by the 1996 Protocol, and to provide such other and further relief as the Department may deem proper.

Myrna F. Adams,

Acting Chief Documentary Services.

[FR Doc. 97–1884 Filed 1–24–97; 8:45 am]

BILLING CODE 4910–62–P

Federal Aviation Administration

Notice of Intent To Rule on Application To Impose and Use the Revenue From a Passenger Facility Charge (PFC) at Will Rogers World Airport, Oklahoma City, Oklahoma

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Will Rogers World Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

DATES: Comments must be received on or before February 26, 1997.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate copies to the FAA at the following address: Mr. Ben Guttery, Federal Aviation Administration, Southwest Region, Airports Division, Planning and Programming Branch, ASW–610D, Fort Worth, Texas 76193–0610.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Luther Trent, Director of Will Rogers World Airport, at the following address: Luther E. Trent, Jr., Director of Airports, City of Oklahoma City, 7100 Terminal Drive, Box 937, Oklahoma City, OK 73159.

Air carriers and foreign air carriers may submit copies of the written comments previously provided to the Airport under Section 158.23 of Part 158.

FOR FURTHER INFORMATION CONTACT: Mr. Ben Guttery, Federal Aviation Administration, Southwest Region, Airports Division, Planning and Programming Branch, ASW–601D, Forth Worth, Texas 76193–0610, (817) 222–5614.

The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Will Rogers World Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

On January 7, 1997, the FAA determined that the application to impose and use the revenue from a PFC submitted by the Airport was substantially complete within the requirements of Section 158.25 of Part 158. The FAA will approve or disapprove the application, in whole or in part, no later than May 2, 1997.

The following is a brief overview of the application.

Level of the proposed PFC: $3.00.

Proposed charge effective date: June 1, 1997.

Proposed charge expiration date: July 2, 1999.

Total estimated PFC revenue: $11,139,463.00.

PFC application number: 97–01–C–00–OKC.

Brief description of proposed projects:

Projects To Impose and Use PFC's

1. Terminal improvements;
2. Concourse Security Doors;
3. Security Access System Upgrade;
4. Terminal Apron Joint Rehabilitation and Runway 13/31 Pavements Sealing
5. Taxiway C Extension;
6. By-Pass Taxiways, Runway 17L and Runway 17R;
7. Surface Monitoring Sensor Upgrade;
8. Airport Lighting Control System;
9. Runway 35R Touchdown Zone Lights;
10. ARFF Vehicles;
11. Storm Water Detention;
12. Runway 13/31 Extension (Phase 1);
13. Air Cargo Road Reconstruction;
14. Taxiway B Reconstruction and Rehabilitation;
15. Security Fencing;
16. Noise Study Update; and

17. Surface Movement Guidance System.

Proposed class or classes of air carriers to be exempted from collecting PFC's: Air Taxi Commercial Operators.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT** and at the FAA regional Airports office located at: Federal Aviation Administration, Southwest Region, Airports Division, Planning and Programming Branch, ASW–610D, 2601 Meacham Blvd., Fort Worth, Texas 76137–4298.

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at Will Rogers World Airport.

Issued in Fort Worth, Texas on January 7, 1997.

Naomi L. Saunders,

Manager, Airports Division.

[FR Doc. 97–1919 Filed 1–24–97; 8:45 am]

BILLING CODE 4910–13–M

Federal Highway Administration

Major Investment Study/Environmental Impact Statement: Coryell & Lampasas Counties, Texas

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that a Major Investment Study/Environmental Impact Statement (MIS/EIS) will be prepared for a proposed highway project in the City of Copperas Cove and Coryell and Lampasas Counties, Texas.

FOR FURTHER INFORMATION CONTACT: Mr. Lubin Quinones, P.E., 826 Federal Office Building, 300 E. 8th Street, Austin, Texas 78701 and Mr. Doug Huneycutt, P.E., Project Manager, Texas Department of Transportation, 100 South Lop Drive, Waco, Texas 76705.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Texas Department of Transportation (TxDOT), will prepare a draft MIS/EIS pursuant to a proposed roadway project intended to relieve traffic congestion on U.S. 190 within the City of Copperas Cove and adjacent portions of Coryell and Lampasas Counties. Improvements initially considered included upgrading the existing facility, constructing a reliever route on new or existing locations, and/or improving alternative transportation modes in the community. Through input derived from previous studies, TxDOT, the consulting study team, the MIS Policy Work Group, and the public, 19 preliminary build alternatives on new and existing locations were analyzed in addition to existing U.S. 190 and alternative transportation mode improvements. The preliminary build alternatives included three alignments located north of U.S. 190 and 16 alignments south of U.S. 190. These alternatives were analyzed in two phases—(1) Fatal Flaw and (2) Qualitative Comparison/Ranking—using three basic criteria: engineering considerations, mobility considerations, and environmental considerations. From the 19 preliminary alternatives, three primary build alternatives south of U.S. 190 emerged as the best potential alternative alignments. In the MIS/EIS document, the three primary build alternatives and the no-build alternative will be analyzed in a more rigorous, quantitative fashion. The locations of the primary build alternative are described below.

The primary reliever route alternatives to be considered in the MIS/EIS lay within an eight kilometer (5 mile) long corridor located to the south of existing U.S. 190. The corridor's eastern terminus is located east of Copperas Cove in Coryell County and west of Rattlesnake Hill; the corridor then proceeds southwest over Sevenmile Mountain and terminates at U.S. 190 just west of Copperas Cove in Lampasas County and immediately west of the U.S. 190/F.M. 2657 intersection. The principal variations of the three alignments within the corridor are in the segment between Sevenmile Mountain and the proposed western terminus near F.M. 2657. Heading west, the northernmost alternative comes off of Sevenmile Mountain, passes just north of the ''saddle'' extension of the mountain, and crosses the South Industrial Park. The middle alternative comes off of Sevenmile Mountain, bisects the ''saddle'' and crosses the South Industrial Park. The southernmost alternative comes off Sevenmile Mountain, and passes immediately south of both the ''saddle'' and South Industrial Park.

At the present stage of the MIS/EIS process, no preferred alternative has been selected. Over the course of conducting previous studies in the city and region, the City of Copperas Cove and TxDOT have given considerable attention to the concept of a reliever roadway around the city to allow through traffic to bypass the frequently congested commercial district on U.S. 190. TxDOT has performed preliminary investigations of a new location, four lane divided freeway with full control of access. The facility would have ramps and frontage roads where warranted and grade separations at FM roads and other major intersecting routes.

Major considerations in the proposal's ongoing studies include costs of rights-of-way, the numbers and types of relocations necessary, engineering constraints and limitations due to rough topography, and potential environmental impacts involving land use, socioeconomic conditions, air quality, noise, traffic, ecological/cultural resources, and hazardous material sites. A coordination environmental assessment was prepared and has been circulated to appropriate Federal, State, and local agencies and to private organizations and citizens who have expressed interest in the proposal. Public meetings have been held on March 7, 1996, and July 18, 1996, and one more is scheduled. One public hearing will be held after the draft MIS/EIS has been completed and made available to the agencies and public. Other public involvement opportunities include a MIS Policy Work Group composed of local officials and key citizens; a hot line (1-800-742-1060) which will be maintained for 19 months to receive public input; a MIS newsletter sent six times on a quarterly basis to update the public on MIS/EIS progress and the dates, times, and locations of public meetings and hearings; and six news releases to be prepared at appropriate times during the MIS/EIS process to inform the public about MIS/EIS status and relevant dates, time, and locations of public meetings and hearings. In addition, at appropriate times over the course of the MIS/EIS process, presentations will be made to the Copperas Cove City Council, Coryell and Lampasas Commissioners Courts, Fort Hood's Directorate of Public Works, the Killeen-Temple Urban Transportation Study Board of Directors and the Central Texas Council of Governments, which serves as the region's Metropolitan Planning Organization.

To ensure that the full range of issues related to this proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the MIS/EIS should be directed to the FHWA or TxDOT at the address provided above.

(Catalog of Federal and Domestic Assistance program Number 20.205, Highway Research, Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program)

Issued on: January 2, 1997.

C.D. Reagan,

Division Administrator, Austin, Texas.

[FR Doc. 97–1914 Filed 1–24–97; 8:45 am]

BILLING CODE 4910–22–M

National Highway Traffic Safety Administration

[Docket No. 97–03; Notice 1]

Notice of Receipt of Petition for Decision That Nonconforming 1987 and 1988 Toyota Van Multipurpose Passenger Vehicles Are Eligible for Importation

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Notice of receipt of petition for decision that nonconforming 1987 and 1988 Toyota Van multipurpose passenger vehicles (MPVs) are eligible for importation.

SUMMARY: This notice announces receipt by the National Highway Traffic Safety Administration (NHTSA) of a petition for a decision that 1987 and 1988 Toyota Van MPVs that were not originally manufactured to comply with all applicable Federal motor vehicle safety standards are eligible for importation into the United States because (1) they are substantially similar to vehicles that were originally manufactured for importation into and sale in the United States and that were certified by their manufacturer as complying with the safety standards, and (2) they are capable of being readily altered to conform to the standards.

DATES: The closing date for comments on the petition is February 26, 1997.

ADDRESSES: Comments should refer to the docket number and notice number, and be submitted to: Docket Section, Room 5109, National Highway Traffic Safety Administration, 400 Seventh St., SW, Washington, DC 20590. [Docket hours are from 9:30 am to 4 pm]

FOR FURTHER INFORMATION CONTACT: George Entwistle, Office of Vehicle Safety Compliance, NHTSA (202–366–5306).

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. 30141(a)(1)(A), a motor vehicle that was not originally manufactured to conform to all applicable Federal motor vehicle safety standards shall be refused admission into the United States unless NHTSA has decided that the motor vehicle is substantially similar to a motor vehicle originally manufactured for importation into and sale in the United States, certified under 49 U.S.C. 30115, and of the same model year as the model of the motor vehicle to be compared, and is capable of being readily altered to conform to all applicable Federal motor vehicle safety standards.

Petitions for eligibility decisions may be submitted by either manufacturers or importers who have registered with NHTSA pursuant to 49 CFR part 592. As specified in 49 CFR 593.7, NHTSA publishes notice in the Federal Register of each petition that it receives, and affords interested persons an opportunity to comment on the petition. At the close of the comment period, NHTSA decides, on the basis of the petition and any comments that it has received, whether the vehicle is eligible for importation. The agency then publishes this decision in the Federal Register.

J.K. Motors of Kingsville, Maryland (''J.K.'') (Registered Importer 90–006) has petitioned NHTSA to decide whether 1987 and 1988 Toyota Vans are eligible for importation into the United States. The vehicles which J.K. believes are substantially similar are the 1987 and 1988 Toyota Vans that were manufactured for importation into, and sale in, the United States and certified by their manufacturer, Toyota Motor Corporation, as conforming to all applicable Federal motor vehicle safety standards.

The petitioner claims that it carefully compared non-U.S. certified 1987 and 1988 Toyota Vans to their U.S. certified counterpart, and found the vehicles to be substantially similar with respect to compliance with most Federal motor vehicle safety standards.

J.K. submitted information with its petition intended to demonstrate that non-U.S. certified 1987 and 1988 Toyota Vans, as originally manufactured, conform to many Federal motor vehicle safety standards in the same manner as their U.S. certified counterparts, or are capable of being readily altered to conform to those standards.

Specifically, the petitioner claims that non-U.S. certified 1987 and 1988 Toyota Vans are identical to their U.S. certified counterparts with respect to compliance with Standard Nos. 102 *Transmission Shift Lever Sequence * * *,* 103 *Defrosting and Defogging Systems,* 104 *Windshield Wiping and Washing Systems,* 105 *Hydraulic Brake Systems,* 106 *Brake Hoses,* 113 *Hood Latch Systems,* 116 *Brake Fluid,* 119 *New Pneumatic Tires,* 124 *Accelerator Control Systems,* 201 *Occupant Protection in Interior Impact,* 202 *Head Restraints,* 204 *Steering Control Rearward Displacement,* 205 *Glazing Materials,* 206 *Door Locks and Door Retention Components,* 207 *Seating Systems,* 210 *Seat Belt Assembly Anchorages,* 212 *Windshield Retention,* 214 *Side Impact Protection,* 216 *Roof Crush Resistance,* 219 *Windshield Zone Intrusion,* 301 *Fuel System Integrity,* and 302 *Flammability of Interior Materials.*

Petitioner also contends that non-U.S. certified 1987 and 1988 Toyota Vans are capable of being readily altered to meet the following standards, in the manner indicated:

Standard No. 101 *Controls and Displays:* (a) Substitution of a lens marked ''Brake'' for a lens with an ECE symbol on the brake failure indicator lamp; (b) replacement of the speedometer/odometer with one calibrated in miles per hour.

Standard No. 108 *Lamps, Reflective Devices and Associated Equipment:* (a) Installation of U.S.-model headlamps and front sidemarker lights; (b) installation of U.S.-model taillamp assemblies which incorporate rear sidemarker lights; (c) installation of a high mounted stop lamp assembly.

Standard No. 111 *Rearview Mirror:* Replacement of the passenger side rearview mirror with a U.S.-model component.

Standard No. 114 *Theft Protection:* Installation of a warning buzzer microswitch and a warning buzzer in the steering lock assembly.

Standard No. 118 *Power Window Systems:* Installation of a relay in the power window system so that the window transport is inoperative when the ignition is switched off.

Standard No. 120 *Tire Selection and Rims:* Installation of a tire information placard.

Standard No. 208 *Occupant Crash Protection:* Installation of a seat belt warning buzzer, wired to the seat belt latch. The petitioner states that the vehicles are equipped with lap and shoulder belts in the front and rear outboard seating positions, and with a lap belt in the rear center seating position.

The petitioner also states that a VIN plate must be installed on the vehicles so that it can be read from outside the left windshield pillar, and a VIN reference label must be installed on the edge of the door or latch post nearest the driver to meet the requirements of 49 CFR part 565.

Interested persons are invited to submit comments on the petition described above. Comments should refer to the docket number and be submitted to: Docket Section, National Highway Traffic Safety Administration, Room 5109, 400 Seventh Street, SW., Washington, DC 20590. It is requested

but not required that 10 copies be submitted.

All comments received before the close of business on the closing date indicated above will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Notice of final action on the petition will be published in the Federal Register pursuant to the authority indicated below.

Authority: 49 U.S.C. 30141(a)(1)(A) and (b)(1); 49 CFR 593.8; delegations of authority at 49 CFR 1.50 and 501.8.

Issued on: January 21, 1997.

Marilynne Jacobs,

Director, Office of Vehicle Safety Compliance.

[FR Doc. 97–1839 Filed 1–24–97; 8:45 am]

BILLING CODE 4910–59–P

Surface Transportation Board

[STB Docket No. AB–290 (Sub-No. 188X)]

Norfolk and Western Railway Company; Abandonment Exemption; Between Edgefield and Escambia Junction, SC

Norfolk and Western Railway Company (NW) has filed a notice of exemption under 49 CFR Part 1152 Subpart F—*Exempt Abandonments* to abandon its 1.5-mile line of railroad between milepost AB–0.0 at Edgefield and milepost AB–1.5 at Escambia Junction, SC.

NW has certified that: (1) No local traffic has moved over the line for at least 2 years; (2) there is no overhead traffic on the line; (3) no formal complaint filed by a user of rail service on the line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Surface Transportation Board (Board) or with any U.S. District Court or has been decided in favor of complainant within the 2-year period; and (4) the requirements at 49 CFR 1105.7 (environmental reports), 49 CFR 1105.8 (historic reports), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the abandonment shall be protected under *Oregon Short Line R. Co.—Abandonment—Goshen,* 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on February 26, 1997, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,[1] formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2), and trail use/rail banking requests under 49 CFR 1152.29[2] must be filed by February 6, 1997. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by February 18, 1997, with: Office of the Secretary, Case Control Branch, Surface Transportation Board, 1201 Constitution Avenue, N.W., Washington, DC 20423.

A copy of any petition filed with the Board should be sent to applicant's representative: James R. Paschall, General Attorney, Norfolk Southern Corporation, Three Commercial Place, Norfolk, VA 23510.

If the verified notice contains false or misleading information, the exemption is void *ab initio.*

NW has filed an environmental report which addresses the abandonment's effects, if any, on the environment and historic resources. The Section of Environmental Analysis (SEA) will issue an environmental assessment (EA) by January 31, 1997. Interested persons may obtain a copy of the EA by writing to SEA (Room 3219, Surface Transportation Board, Washington, DC 20423) or by calling Elaine Kaiser, Chief of SEA, at (202) 927–6248. Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Decided: January 21, 1997.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 97–1871 Filed 1–24–97; 8:45 am]

BILLING CODE 4915–00–P

[1] The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Section of Environmental Analysis in its independent investigation) cannot be made before the exemption's effective date. See *Exemption of Out-of-Service Rail Lines,* 5 I.C.C.2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemption's effective date.

[2] The Board will accept late-filed trail use requests as long as the abandonment has not been consummated and the abandoning railroad is willing to negotiate an agreement.

DEPARTMENT OF THE TREASURY

Customs Service

Non-ABI Processing of Refunds Under the Generalized System of Preferences

AGENCY: Customs Service, Treasury.

ACTION: General notice.

SUMMARY: This document gives notice that Customs has completed the Automated Broker Interface (ABI) processing of certain retroactively-eligible Generalized System of Preferences (GSP) duty refund claims—for the period July 31, 1995, through September 30, 1996—and advises those ABI filers that did not receive a duty refund to contact in writing the port director of the port where the GSP-eligible goods were entered or withdrawn.

EFFECTIVE DATE: January 27, 1997.

FOR FURTHER INFORMATION CONTACT: *For general operational aspects:* John Pierce, Office of Trade Agreements, (202–927–1249).

For information on specific refunds: The Customs port office where the subject merchandise was entered or withdrawn.

SUPPLEMENTARY INFORMATION:

Background

The Generalized System of Preferences (GSP) is a renewable, preferential trade program that allows the products of many developing countries to enter the United States free of duty. On July 31, 1995, continued authority for the GSP program lapsed, and it was not until August 20, 1996, that the entry of eligible merchandise under provisions of the GSP was again authorized until May 31, 1997, pursuant to provisions contained in the GSP Renewal Act of 1996 (the 1996 Act, Pub.L. 104–188, 110 Stat. 1755, at 110 Stat. 1917). The 1996 Act contained certain retroactive applications for the processing of articles entered after July 31, 1995, and before October 1, 1996; such entries were to be liquidated or reliquidated and the deposit of estimated duties refunded with interest, provided that a request for liquidation or reliquidation was filed with Customs by February 16, 1997, *i.e.,* within 180 days after the date of the 1996 Act's enactment, that contained sufficient information to enable Customs to locate the entry or to reconstruct the entry if it cannot be located. *See,* Federal Register notice of Friday, September 20, 1996 (61 FR 49528).

In anticipation of the 1995 lapse of authority for continued GSP processing of eligible merchandise, Customs

published a general notice in the Federal Register on Wednesday, July 5, 1995 (60 FR 35103), which advised that estimated duties would have to be deposited on imported merchandise which was entered, or withdrawn from warehouse, for consumption after July 31, 1995. Since it was expected that the GSP would be renewed with retroactive effect, Customs developed a mechanism to facilitate refunds: it was explained that filers who file entry summaries through the Automated Broker Interface (ABI) could automatically request a refund of the duty deposited by using the Special Program Indicator (SPI) for the GSP (the letter ''A'') on the entry summary documentation. Such ABI filers were advised that if they followed these procedures, they would not have to request a refund in writing if the GSP were to be renewed with retroactive effect.

Entries subject to the above procedure were liquidated with refunds plus interest on October 4th, 18th, and 25th and November 1st of 1996 and checks were issued. Lists of those entries that were filed in accordance with the published procedures, but which were not processed on one of the dates indicted above, were sent to each port for issuance of refunds.

Outstanding Claims

Filers who followed the published ABI procedures should have received their refunds. Such persons who have not yet received their refunds should write a letter to the port director of the port where the goods were entered or withdrawn. The letter may cover either single entry summaries or all entry summaries filed by an individual filer at a single port and should include the following information:

(1) A request for a refund as provided for in the 1996 Act;

(2) The entry numbers and line items for which refunds need to be issued; and

(3) The amount to be refunded for each line item and the total amount owed for all entries.

This procedure should also be used by anyone who did not request an automatic refund in accordance with the GSP program procedure published in the Federal Register on July 5, 1995. All requests must be filed on or before February 16, 1997.

Approved: January 22, 1997.

Audrey Adams,

Acting Assistant Commissioner, Office of Field Operations.

[FR Doc. 97–1893 Filed 1–24–97; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF VETERANS AFFAIRS

Persian Gulf Expert Scientific Committee; Meeting

The Department of Veterans Affairs (VA), in accordance with Pub. L. 92–463, gives notice that a meeting of the VA Persian Gulf Expert Scientific Committee will be held on:

Monday, February 3, 1997, at 8:30 a.m.–5 p.m.

Tuesday, February 4, 1997, at 8:30 a.m.–noon

The location of the meeting will be 810 Vermont Avenue, NW., Washington, DC, Room 230.

The Committee's objectives are to advise the Under Secretary for Health about medical findings affecting Persian Gulf era veterans.

At this meeting the Committee will review all aspects of patient care and medical diagnoses and will provide professional consultation as needed. The Committee may advise on other areas involving research and development, veterans benefits and/or training aspects for patients and staff.

All portions of the meeting will be open to the public except from 4 p.m. until 5 p.m. on February 3 and from 11 a.m. to 12 noon on February 4, 1997. During these executive sessions, discussions and recommendations will deal with medical records of specific patients and individually identifiable patient medical histories. The disclosure of this information would constitute a clearly unwarranted invasion of personal privacy. Closure of this portion of the meeting is in accordance with subsection 10(d) of Pub. L. 92–463, as amended by Pub. L. 94–409, and as cited in 5 U.S.C. 552b(c)(6).

The agenda for February 3 will begin with an update on recent events, followed by responses from Committee members. The first day's agenda will also cover reports on activities of the Persian Gulf Registry Program, a report on the Presidential Advisory Committee Report, Stress Issues Among Persian Gulf veterans and Toxicological Considerations in the Persian Gulf.

On February 4 the Committee will hear reports on the Persian Gulf Study in Iowa as well as the report of a study on Exposures and Symptomatology Among Select Persian Gulf Veterans.

Additional information concerning these meetings may be obtained from the Executive Secretary, Office of Public Health & Environmental Hazards, 810 Vermont Avenue, NW., Washington, DC 20420.

Dated: January 16, 1997.

By direction of the Secretary.

Heyward Bannister,

Committee Management Officer.

[FR Doc. 97–1817 Filed 1–24–97; 8:45 am]

BILLING CODE 8320–01–M

Corrections

Federal Register
Vol. 62, No. 17
Monday, January 27, 1997

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 157

[CGD 91-045c]

RIN 2115-AF27

Structural Measures to Reduce Oil Spills From Existing Tank Vessels Without Double Hulls

Correction

In rule document 97–471 beginning on page 1622 in the issue of Friday, January 10, 1997, make the following corrections:

1. On page 1622, in the first column, in the last line, ''in'' should read ''of''.

2. On the same page, in the third column, the heading, ''I. Applicability'' should read ''1. Applicability''.

3. On page 1623, in the first column, in the second full paragraph, in the eighth line, ''on'' should read ''of''.

4. On the same page, in second column, in the first full paragraph, in the second line from the bottom, ''currently'' should read ''current''.

5. On page 1626, in the first column, in the first full paragraph, in the eighth line, remove ''Another between the vessel's side and bottom as an option.''

6. On page 1627, in the first column, in the first full paragraph, in the fifth line, ''required'' should read ''requires''.

7. On the same page, in the same column, in the third paragraph, in the second line, ''benefits'' should read ''benefit''.

8. On page 1632, in the second column, in the last line, ''requirements'' should read ''requirement''.

9. On page 1634, in the first column, in the second paragraph, in the fifth line, ''SNPM'' should read ''SNPRM''.

10. On the same page, in the second column, in the sixth line, ''SNPM'' should read ''SNPRM''.

11. On the same page, in the same column, in the first paragraph, in the third line from the end, ''comments'' should read ''comment's''.

12. On the same page, in the third column, in the first full paragraph, in the second line from the end, ''weighted'' should read ''weighed''.

13. On the same page, in the same column, in the last paragraph, in the fourth line from the bottom, ''it'' should read ''is''.

14. On page 1636, in the first column, in the first paragraph, in the fifteenth line from the end, the first ''the'' should read ''that''.

15. On the same page, in the third column, in the words of issuance, ''reason'' should read ''reasons''.

BILLING CODE 1505–01–D

Federal Register

Monday
January 27, 1997

Part II

Department of Commerce

National Telecommunications and Information Administration

Telecommunications and Information Infrastructure Assistance Program; Notice

DEPARTMENT OF COMMERCE

National Telecommunications and Information Administration

[Docket Number: 970103002–7002–01]

RIN 0660-ZA02

CFDA: 11.552; Telecommunications and Information Infrastructure Assistance Program

AGENCY: National Telecommunications and Information Administration, Commerce.

ACTION: Notice of availability of grant funds.

SUMMARY: The National Telecommunications and Information Administration (NTIA) issues this Notice describing the conditions under which applications will be received under the Telecommunications and Information Infrastructure Assistance Program (TIIAP) and how NTIA will determine which applications it will fund. TIIAP assists eligible organizations by promoting the widespread use of advanced telecommunications and information technologies in the public and non-profit sectors. By providing matching grants for information infrastructure projects, this program will help develop a nationwide, interactive, multimedia information infrastructure that is accessible to all citizens, in rural as well as urban areas.

DATES: Complete applications for the Fiscal Year 1997 TIIAP grant program must be mailed or hand-carried to the address indicated below and received by NTIA no later than 5 P.M. EST, March 27, 1997.

ADDRESSES: Telecommunications and Information Infrastructure Assistance Program, National Telecommunications and Information Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, HCHB, Room 4092, Washington, DC 20230.

FOR FURTHER INFORMATION, CONTACT: Stephen J. Downs, Acting Director of the Telecommunications and Information Infrastructure Assistance Program, Telephone: 202/482–2048. Fax: 202/501–5136. E-mail: tiiap@ntia.doc.gov.

SUPPLEMENTARY INFORMATION:

Program Purposes

NTIA announces the fourth annual round of a competitive matching grant program, TIIAP. TIIAP was created to promote the development and widespread availability and use of advanced telecommunications and information technologies to serve the public interest.

To accomplish this objective, TIIAP will provide matching grants to state, local, and tribal governments, non-profit health care providers and public health institutions, school districts, libraries, museums, colleges, universities, public safety providers, non-profit community-based organizations, and other non-profit entities. TIIAP will support projects that improve the quality of, and the public's access to, education and lifelong learning; reduce the cost, improve the quality, and/or increase the accessibility of health care and public health services; promote responsive public safety services; improve the effectiveness and efficiency of government services; and foster communication, resource-sharing, and economic development within communities, both rural and urban.

Authority

Title III of the Department of Commerce, Justice and State, the Judiciary and Related Agencies Appropriations Act (set out in Division A, Title I of the Omnibus Consolidated Appropriations Act of 1997, Pub. L. 104–208).

Funding Availability

Approximately $18.5 million is available for federal assistance. A small amount of additional funds that have been deobligated from grants awarded in previous fiscal years may also be available for Fiscal Year 1997 grants. Based on past experience, NTIA expects this year's grant round to be highly competitive. In fiscal year 1996, NTIA received 809 applications, collectively requesting $260 million in grant funds. From these 809 applications, the Department of Commerce announced 67 TIIAP awards totaling $18.6 million in federal funds.

Based on past grant rounds, the average size of each grant award will be approximately $300,000, although an applicant may request up to $750,000 in federal support.

Eligible Organizations

State, local, and Indian tribal governments, colleges and universities, and non-profit entities are eligible to apply. However, individuals and for-profit organizations are not eligible.

Matching Funds Requirements

Grant recipients under this program will be required to provide matching funds toward the total project cost. Applicants must document the capacity to supply matching funds. Matching funds may be in the form of cash or in-kind contributions. Grant funds under this program will be released in direct proportion to local matching funds utilized and documented as having been expended. NTIA will supply up to 50% of the total project cost, unless the applicant can document extraordinary circumstances warranting a grant of up to 75%. Federal funds (such as grants) generally may not be used as matching funds, except as provided by federal statute. For information about whether particular federal funds may be used as matching funds, the applicant should contact the federal agency that administers the funds in question.

Policy on Sectarian Activities

Applicants are advised that on December 22, 1995, NTIA issued a notice in the Federal Register on its policy with regard to sectarian activities. Under NTIA's prior policy, NTIA funds could not be used for any sectarian purposes. Under the new policy, while religious activities cannot be the essential thrust of a grant, an application will not be ineligible where sectarian activities are only incidental or attenuated to the overall project purpose for which funding is requested. Applicants for whom this policy may be relevant should read the policy that was published at 60 FR 66491, Dec. 22, 1995.

Completeness of Application

TIIAP will initially review all proposals to determine whether all required elements are present and clearly identifiable. The required elements are listed and described in the Guidelines for Preparing Applications—Fiscal Year 1997. Each of the required elements must be present and clearly identified. Failure to do so may result in rejection of the application.

Closing Date

As noted above, complete applications for the Fiscal Year 1997 TIIAP grant program must be received by NTIA no later than 5 P.M. EST, March 27, 1997. (Postmark date is not sufficient.) Applications received after that time and date will not be accepted. But see Waiver Authority, ante. Applications will not be accepted via facsimile machine transmission or electronic mail. NTIA anticipates that it will take between 4 and 6 months to process applications and make final funding decisions.

Scope of Proposed Project

Funded projects must meet the funding priorities described in this Notice. Projects must involve the delivery of useful, practical services in real-world environments within the grant award period. In Fiscal Year 1997,

TIIAP will not fund the following kinds of projects:

One-Way Networks. TIIAP will not support the construction or augmentation of one-way networks; all services and networks proposed under the program must be interactive.[1]

Content Development[2] Projects. TIIAP will not support projects whose primary focus is to develop or produce information content, rather than to apply information infrastructure[3] to practical problems. For example, TIIAP will not consider projects whose primary purpose is the creation of databases or other information resources by converting paper-based information, nor will TIIAP consider projects that aim primarily to digitize existing graphics collections. Similarly, TIIAP will not consider projects that aim primarily to create new information resources, such as World Wide Web sites.

Hardware or Software Development Projects. While some hardware or software development may be required to integrate existing systems or components, it may not be a major emphasis of any TIIAP project.

Single-Organization Projects. TIIAP will not support projects whose primary emphasis is on the internal communications needs of a single organization. Projects must include appropriate partnerships,[4] with plans for inter-organizational communications among the partners.

Training Projects. TIIAP will generally not support projects whose sole activity is to provide training in the use of information infrastructure technology. Although a training component is essential to most implementation projects, it must not be the exclusive focus of the project.

Replacement or Upgrade of Existing Facilities. TIIAP will not support any projects whose primary emphasis is the upgrade or replacement of existing facilities.

[1] Interactivity is defined as the capacity of a communications system to allow end users to communicate directly with other users, either in real time (as in a video teleconference) or on a store-and-forward basis (as with electronic mail), or to seek and gain access to information on an on-demand basis, as opposed to a broadcast basis.

[2] ''Content development'' refers to the creation of information resources, such as databases or World Wide Web sites, for the purpose of dissemination through one or more on-line services.

[3] The telecommunication networks, computers, other end-user devices, software, standards, and skills that collectively enable people to connect to each other and to a vast array of services and information resources.

[4] A partner is defined as an organization that supplies cash or in kind resources and plays an active role in the planning and implementation of the product.

Program Funding Priorities

NTIA has significantly changed the structure of the funding categories for TIIAP and applicants who have previously applied to the program should carefully note this change. For the 1997 fiscal year, the TIIAP review process will not distinguish among access, demonstration and planning projects. All applications will be judged according to a single set of evaluation criteria, described later in this Notice, and all rules set forth in this Notice will apply to all applications. This change does not imply a change in the scope of projects that will be considered for support; the change only reflects NTIA's decision not to differentiate among different categories of projects.

NTIA will support model projects that contribute to the development of an advanced national information infrastructure (NII)[5] by providing innovative examples of how telecommunications and information technologies can be used to provide valuable services to communities and by extending these opportunities to underserved[6] Americans. NTIA seeks to fund exemplary projects that identify specific problems or needs in a community, use information infrastructure services and technologies to offer concrete solutions, and target measurable outcomes. The emphasis is on the application of the technology, not the technology itself. Each project should include a rigorous evaluation and add to our national understanding of how the NII can be used to benefit the public. Each project is expected to reach out to all members of a community and thus help to bridge the gaps between information ''haves'' and ''have-nots.''

NTIA seeks to fund projects that are innovative, not necessarily in terms of the technology to be used, but in the application of technology in a particular setting, to serve a particular population, or to solve a particular problem. Innovations often take the form of imaginative partnerships or organizational models, new applications of proven technologies, or creative strategies for overcoming traditional barriers to access. Projects must be exemplary in the sense that they can serve as models that can be emulated, replicated, or adapted to local conditions by other organizations and communities facing similar challenges. NTIA seeks to fund a wide variety of model projects across different application areas, geographic regions, and underserved populations.

In past fiscal years, TIIAP has supported planning projects whose primary goal was to develop strategies for the enhanced application of the NII, rather than deploy or use information infrastructure. Due to the limited amount of funds available to the program, the emphasis for Fiscal Year 1997 is on projects that deploy, use, and evaluate the use of information infrastructure applications. NTIA will, however, also consider allocating a limited amount of funds to support outstanding projects in which planning is the sole activity. Applications for such projects will be evaluated against the same criteria applied to all other proposals.

In Fiscal Year 1997, TIIAP will support projects in five application areas: Community-Wide Networking; Education, Culture, and Lifelong Learning; Health; Public and Community Services; and Public Safety. Each application in a particular application area will be compared against other applications in that same area:

Community-Wide Networking

This area focuses on multi-purpose projects that help a broad range of community residents and organizations to communicate, share information, and participate in civic activities, and that promote economic development. Community-Wide Networking projects typically link services or provide information across multiple application areas.

Examples may include, but would not be limited to: Community-wide information and communication services available to residents of a local community; projects enabling a diverse array of organizations to share information infrastructure and resources; and networks or information services that promote community or regional economic development.

[5] The National Information Infrastructure (NII) is a federal policy initiative to facilitate and accelerate the development and utilization of the nation's information infrastructure. The Administration envisions the NII as a seamless web of communications networks, computers, databases, and consumer electronics that will put vast amounts of information at users' fingertips. For more information on various aspects of the NII initiative, see The National Information Infrastructure: Agenda for Action, 58 Fed. Reg. 49,025 (September 21, 1993).

[6] ''Underserved'' refers to individuals and communities that are subject to barriers that limit or prevent their access to the benefits of information infrastructure technologies and services. In terms of information infrastructure, these barriers may be technological, geographic, economic, physical, linguistic, or cultural. For example, a rural community may be physically isolated from circuits adequate to allow for data access; inner city neighborhoods may contain large numbers of potential end users for whom ownership of computer hardware is unlikely; individuals with disabilities may have the need for different types of interfaces when manipulating hardware and software.

Education, Culture, and Lifelong Learning

Projects in this area seek to improve education and training for learners of all ages and provide cultural enrichment through the use of information infrastructure in both traditional and non-traditional settings.

Examples may include, but would not be limited to: Projects that explore creative approaches to integrating computer-based learning and network resources in K–12 classrooms; projects providing children, youth, and adult learners with educational and training opportunities in community centers and other non-traditional settings; projects that forge stronger links among educators, students, parents, and others in the community; projects linking workplaces and job-training sites to educational institutions; distance learning networks providing continuing education for professionals in remote areas; projects that enrich communities by providing broad access to arts, science, and cultural resources; delivery of on-line informational, educational, and cultural services from public libraries, museums, and other cultural centers; and projects that support the teaching of literacy to adult learners.

Health

Projects in this area involve the use of information infrastructure in the delivery of health and mental health services, public health, home health care and the provision of health information to the public.

Examples of projects may include, but would not be limited to: Telemedicine systems that offer new approaches to extending medical expertise to rural or underserved urban areas; community health information networks for sharing clinical, financial, and/or administrative information among hospitals, clinics, public health departments, and other organizations; home health care systems that improve the care and treatment of patients in the home environment; and networks or information services aimed at disease prevention and health promotion.

Public and Community Services

Projects in this area aim to empower individuals and communities and to improve the delivery of services to people with a range of social service needs. This area includes social services such as housing, child welfare, food assistance, employment counseling, and others, typically delivered by state and local governments or by community-based non-profit organizations.

Examples of projects may include but would not be limited to: Projects that use information technology creatively to promote self-sufficiency among individuals and families; networks that facilitate coordination and collaboration among public and/or community-based agencies; electronic information and referral services that provide information on a variety of community-based or government services; projects that make public agencies more accessible and responsive to community residents; electronic benefits transfer projects; and projects that employ community or geographic information systems to study demographic or environmental trends and target community interventions.

Public Safety

Projects in this area will seek to increase the effectiveness of law enforcement agencies, emergency, rescue, and fire departments, or other entities involved in providing safety services.

Examples may include, but would not be limited to, projects that facilitate information exchange among public safety agencies located in a single geographic area to increase efficiency and share resources, or those that provide information in a timely manner to ''first-response officials,'' such as police officers, emergency medical technicians, and firefighters. Other examples could include projects that help public safety agencies provide community outreach services, projects that develop innovative ways to share scarce spectrum resources, and projects that aim to increase the safety and security of children.

TIIAP will support projects that promote the accessibility and usability of the NII for persons with disabilities. Such projects are expected to fall under one of the five application areas described above.

The Guidelines booklet provides more information on selecting an application area for your application.

Evaluation Criteria

Reviewers will evaluate each application using the following equally weighted criteria:

1. Project Purpose

Each application will be rated on the purpose of the project and its potential contribution to our national understanding of how the NII can be used to benefit the public. The proposal must: (1) Clearly define a specific problem (or problems) within the community; (2) propose a credible solution that employs information infrastructure services and technologies; and (3) identify realistic, measurable outcomes that are expected as a result of the project. These three elements—problem, solution, and outcome must be clearly described and the connections among them must be convincing. Reviewers will examine the degree to which the proposed project supports NTIA's funding priorities as outlined earlier in this Notice and will verify that the scope of the project meets TIIAP's eligibility criteria. Reviewers will assess the overall significance of the proposed project—the degree to which it is innovative and has the potential to serve as a national model that other communities could follow.

2. Project Feasibility

Each application will be rated on the overall feasibility of the proposed project and its plan of implementation. In assessing project feasibility, reviewers will focus on the following issues: The technical approach; the qualifications of the applicant team; the proposed budget and implementation schedule; and the applicant's plan for sustaining the project beyond the grant period.

The technical approach should be consistent with the vision of a nationwide, seamless, interactive network of networks and must therefore address issues of interoperability [7] and scalability. [8] Proposals must specify in detail how the proposed system would work, how it would operate with other systems, the technological alternatives that have been examined, and the plans for the maintenance and/or upgrading of the system. Applicants are expected to make use of existing infrastructure and commercially available telecommunications services, unless extraordinary circumstances require the construction of new network facilities.

Applicants must describe the qualifications of the project team, including the applicant and its partners, to show that they have the resources, expertise, and experience necessary to undertake the project and complete it within the proposed period.

Reviewers will analyze the budget in terms of clarity and cost-effectiveness. The proposed budget must be appropriate to the tasks proposed and sufficiently detailed so that reviewers

[7] The condition achieved among information and communication systems when information (i.e., data, voice, image, audio, or video) can be easily and cost-effectively shared across acquisition, transmission, and presentation technologies, equipment, and services.

[8] ''Scalability'' refers to the ability of a system to accommodate a significant growth in the size of the system (i.e., services provided, end users served) without the need for substantial redesign. A scalable approach that is demonstrated on a small scale can also be applied on a larger scale.

can easily understand the relationship of items in the budget to the project narrative. In addition to a clear and well-justified budget proposal, each application should contain a proposed implementation schedule that identifies major project tasks and milestones.

Reviewers will also examine the potential viability of the proposed project beyond the grant period. Applicants should therefore present a credible plan, including a discussion of anticipated ongoing expenses and potential sources of non-federal funds, to sustain the project after completion of the grant. In evaluating the plan, reviewers will consider the economic circumstances of the community or communities to be served by the proposed project.

3. Community Involvement

Each application will be rated on the overall level of community involvement in the development of the project and the implementation of the proposed project. Reviewers will pay particular attention to the partnerships involved, the strength and diversity of support for the project within the community, and the support for the project's end users.[9]

Community involvement must include the development of partnerships among unaffiliated organizations, from the public, non-profit, or private sectors, as an integral part of each project. Partnerships must be clearly defined, mutually beneficial, and the commitments well documented in the application.

Reviewers will examine the steps the applicant has taken in involving a wide variety of community stakeholders in the planning of the project and the plans for ongoing community involvement in the project's implementation. Each application should contain evidence of demand, from the community, the end users, and the potential beneficiaries, for the services that the proposed project would provide.

Reviewers will consider the degree of attention paid to the needs, skills, working conditions, and living environments of the targeted end users. Plans for training end users, upgrading their skills, and building community awareness and knowledge of the project must be clearly delineated and the application should include evidence of a significant degree of end-user involvement in the design and planning of projects. NTIA expects applicants to safeguard the privacy of the end users and beneficiaries[10] of the project. Where relevant, proposals must address the privacy and confidentiality of user data. For example, an applicant proposing a project dealing with individually identifiable information (e.g., student grades, medical records) will be required to describe the technical and policy mechanisms to be used for protecting the confidentiality of such information and the privacy of the individuals involved.

4. Reducing Disparities

Every project proposed to TIIAP should target underserved communities specifically and/or reach out to underserved groups within a broader community. Each application will be rated according to the degree to which the proposed project will serve to reduce disparities in access to information infrastructure technologies and services. Reviewers will assess each application by examining evidence of community need and the applicant's proposed strategies for overcoming traditional barriers to access. Disparities in access must be clearly described and supported by specific quantitative data. Beyond providing service to underserved communities, each application should also propose strategies for reaching out to targeted groups and for tailoring any services to their specific needs and circumstances. These strategies should reflect an understanding of why the barriers currently exist and a sensitivity to the learning mechanisms, attitudes, and customs of the community. In assessing community need, reviewers will also consider the degree to which TIIAP support is vital to success of the project.

5. Evaluation and Dissemination

Each proposal must include a plan for evaluating the project and a dissemination plan for sharing knowledge gained from the project. Each application will be rated on the quality of its evaluation design and its potential to measure both the outcomes of the project and the effectiveness and efficiency of the proposed solutions in achieving intended outcomes. The design should include both quantitative and qualitative indicators and must identify specific evaluation methods and instruments. The evaluation design should also capture the lessons learned during the project that will serve as pragmatic how-tos for others interested in replicating or adapting the project in other communities.

Applications must include the qualifications of any proposed evaluators and sufficient funds in the budget to perform a thorough and useful evaluation of the project.

Reviewers will also examine the applicant's plan for disseminating the knowledge gained as a result of implementing the project. Applicants must demonstrate a willingness to share information about their projects with interested projects, to host site visits, and to participate in demonstrations. The project budget should also include adequate funds to support proposed dissemination activities.

Selection Process

NTIA will publish a notice in the Federal Register listing all applications received by TIIAP. Listing an application in such a notice merely acknowledges receipt of an application that will compete for funding with other applications. Publication does not preclude subsequent return or disapproval of the application, nor does it ensure that the application will be funded.

(a) Each eligible application will first be reviewed by a panel of outside readers, who have demonstrated expertise in both the programmatic and technological aspects of the application. The review panels will evaluate applications according to the evaluation criteria provided in this Notice and make non-binding recommendations to the program staff. Working with the staff, the TIIAP Director prepares and presents a slate of recommended grant awards to the Office of Telecommunications and Information Applications'' (OTIA)[11] Associate Administrator for review and approval.

The Director's recommendations and the Associate Administrator's review and approval will take into account the following selection factors:

1. The evaluations of the outside reviewers;

2. The geographic distribution of the proposed grant awards;

3. The variety of technologies and strategies employed by the proposed grant awards;

4. The extent to which the proposed grant awards represent a reasonable

[9] An end user is one who customarily employs or seeks access to, rather than provides, information infrastructure. An end user may be a consumer of information (e.g., a member of the public employing a touch-screen public access terminal); may be involved in an interactive communication with other end users; or may use information infrastructure to provide services to the public.

[10] Project beneficiaries are those individuals or organizations deriving benefits from a project's outcome(s). A project beneficiary may also, but not necessarily, be a project end user.

[11] The Office of Telecommunication and Information Applications is the division of the National Telecommunications and Information Administration that supervises NTIA's grant awards programs, the Telecommunications and Information Infrastructure Assistance Program and the Public Telecommunications Facilities Program.

distribution of funds across application areas;

5. The promotion of access to and use of the information infrastructure by rural communities and other underserved groups;

6. Avoidance of redundancy and conflicts with the initiatives of other federal agencies; and

7. The availability of funds.

(b) Upon approval by the OTIA Associate Administrator, the Director's recommendations will then be presented to the Selecting Official, the NTIA Administrator. The NTIA Administrator selects the applications to be negotiated for possible grant award taking into consideration the Director's recommendations and the degree to which the slate of applications, taken as a whole, satisfies the selection factors described above and the program's stated purposes as set forth in the section entitled ''Program Purposes.''

After applications have been selected in this manner, negotiations will take place between TIIAP staff and the applicant. These negotiations are intended to resolve any differences that exist between the applicant's original request and what TIIAP proposes to fund and, if necessary, to clarify items in the application. Not all applicants who are contacted for negotiation will necessarily receive a TIIAP award. Final selections made by the Administrator will be based upon the recommendations by the Director and the OTIA Associate Administrator and the degree to which the slate of applications, taken as a whole, satisfies the program's stated purposes as set forth in the section entitled ''Program Purposes,'' upon the conclusion of negotiations.

Eligible Costs

Eligible Costs

Allowable costs incurred under approved projects shall be determined in accordance with applicable federal cost principles, i.e., OMB Circular A–21, A–87, A–122, or appendix E of 45 CFR part 74. If included in the approved project budget, TIIAP will allow costs for personnel, fringe benefits, computer hardware and software, other end-user equipment, telecommunication services and related equipment, consultants and other contractual services, travel, rental of office equipment, furniture and space, supplies, etc. that are reasonable and directly related to the project. Costs associated with the construction or major renovation of buildings are not eligible. While costs for the construction of new network facilities are eligible costs, applicants are expected to make use of existing infrastructure and commercially available telecommunications services. Only under extraordinary circumstances will the construction of new network facilities be approved. Costs of the professional services, such as instruction, counseling, or medical care, provided via a network supported through this program are not eligible.

Note that costs that are ineligible for TIIAP support may not be included as part of the applicant's matching fund contribution.

Indirect Costs

The total dollar amount of the indirect costs proposed in an application under this program must not exceed the indirect cost rate negotiated and approved by a cognizant federal agency or 100 percent of the total proposed direct costs dollar amount in the application, whichever is less.

Award Period

Successful applicants will have between 12 and 36 months to complete their projects. While the completion time will vary depending on the complexity of the project, applicants should take special care to justify a project lasting longer than 24 months.

Waiver Authority

It is the general intent of NTIA not to waive any of the provisions set forth in this Notice. However, under extraordinary circumstances and when it is in the best interest of the federal government, NTIA, upon its own initiative or when requested, may waive the provisions in this Notice. Waivers may only be granted for requirements that are discretionary and not mandated by statute. Any request for a waiver must set forth the extraordinary circumstances for the request and be included in the application or sent to the address provided in the **ADDRESSES** section above. NTIA will not consider a request to waive the application deadline for an application until the application has been received.

Other Information

Electronic Information

Information about NTIA and TIIAP, including this document and the Guidelines, can be retrieved electronically via the Internet using the World Wide Web. To reach the WWW server, use http://www.ntia.doc.gov to reach the NTIA Home Page and follow directions to locating information about TIIAP. TIIAP can also be reached via electronic mail at tiiap@ntia.doc.gov.

Application Forms

Standard Forms 424 (OMB Approval Number 0348–0044), Application for Federal Assistance; 424A (OMB Approval Number 0348–0043), Budget Information—Non-Construction Programs; and 424B (OMB Approval Number 0348–0040), Assurances—Non-Construction Programs, (Rev 4–92), and other Department of Commerce forms shall be used in applying for financial assistance. These forms are included in the Guidelines, which can be obtained by contacting NTIA by telephone, fax, or electronic mail, as described in the **ADDRESSES** section above. TIIAP requests one original and five copies of the application. Applicants for whom the submission of five copies presents financial hardship may submit one original and two copies of the application. Notwithstanding any other provision of law, no person is required to respond to nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a currently valid OMB control number. In addition, all applicants are required to submit a copy of their application to their state Single Point of Contact (SPOC) offices, if they have one. (For information on contacting state SPOC offices, refer to the Guidelines.)

Because of the high level of public interest in projects supported by TIIAP, the program anticipates receiving requests for copies of successful applications. Applicants are hereby notified that the applications they submit are subject to the Freedom of Information Act. Applicants may identify sensitive information and label it ''confidential'' to assist NTIA in making disclosure determinations.

Type of Funding Instrument

The funding instrument for awards under this program shall be a grant.

Federal Policies and Procedures

Recipients and subrecipients are subject to all applicable federal laws and federal and Department of Commerce policies, regulations, and procedures applicable to federal financial assistance awards.

Pre-Award Activities

If an applicant incurs any project costs prior to the project start date negotiated at the time the award is made, it does so solely at its own risk of not being reimbursed by the government. Applicants are hereby notified that, notwithstanding any oral or written assurance that they may have

received, there is no obligation on the part of the Department of Commerce to cover pre-award costs.

No Obligation for Future Funding

If an application is selected for funding, the Department of Commerce has no obligation to provide any additional future funding in connection with that award. Renewal of an award to increase funding or extend the period of performance is at the total discretion of the Department of Commerce.

Past Performance

Unsatisfactory performance of an applicant under prior federal financial assistance awards may result in that applicant's proposal not being considered for funding.

Delinquent Federal Debts

No award of federal funds shall be made to an applicant who has an outstanding delinquent federal debt until:

1. The delinquent account is paid in full;
2. A negotiated repayment schedule is established and at least one payment is received; or
3. Other arrangements satisfactory to the Department of Commerce are made.

Purchase of American-Made Products

Applicants are hereby notified that any equipment or products authorized to be purchased with funding provided under this program must be American-made to the maximum extent feasible.

Name Check Review

All non-profit applicants are subject to a name check review process. Name checks are intended to reveal if any key individuals associated with the applicant have been convicted of or are presently facing criminal charges such as fraud, theft, perjury, or other matters that significantly reflect on the applicant's management, honesty, or financial integrity.

Primary Applicant Certifications

All primary applicants must submit a completed Form CD–511, ''Certifications Regarding Debarment, Suspension and Other Responsibility Matters; Drug-Free Workplace Requirements and Lobbying,'' and the following explanations are hereby provided:

1. Nonprocurement Debarment and Suspension—Prospective participants (as defined at 15 CFR part 26, Section 105) are subject to 15 CFR part 26, ''Nonprocurement Debarment and Suspension'' and the related section of the certification form prescribed above applies;
2. Drug-Free Workplace—Grantees (as defined at 15 CFR part 26, Section 605) are subject to 15 CFR part 26, Subpart F, ''Government wide Requirements for Drug-Free Workplace (Grants)'' and the related section of the certification form prescribed above applies;
3. Anti-Lobbying—Persons (as defined at 15 CFR part 28, Section 105) are subject to the lobbying provisions of 31 U.S.C. 1352, ''Limitation on use of appropriated funds to influence certain federal contracting and financial transactions,'' and the lobbying section of the certification form prescribed above applies to applications/bids for grants, cooperative agreements, and contracts for more than $100,000, and loans and loan guarantees for more than $150,000, or the single family maximum mortgage limit for affected programs, whichever is greater; and
4. Anti-Lobbying Disclosure—Any applicant that has paid or will pay for lobbying in connection with a covered federal action, such as the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, or the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement using any funds must submit an SF-LLL, ''Disclosure of Lobbying Activities'' (OMB Control Number 0348–0046), as required under 15 CFR part 28, appendix B.

Lower Tier Certifications

Recipients shall require applicants/bidders for subgrants, contracts, subcontracts, or other lower tier covered transactions at any tier under the award to submit, if applicable, a completed Form CD–512, ''Certifications Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transactions and Lobbying'' and disclosure form SF-LLL, ''Disclosure of Lobbying Activities.'' Form CD–512 is intended for the use of recipients and should not be transmitted to DOC. SF-LLL submitted by any tier recipient or subrecipient should be submitted to DOC in accordance with the instructions contained in the award document.

False Statements

A false statement on an application is grounds for denial or termination of funds and grounds for possible punishment by a fine or imprisonment as provided in 18 U.S.C. 1001.

Intergovernmental Review

Applications under this program are subject to Executive Order 12372, ''Intergovernmental Review of Federal Programs.'' It has been determined that this notice is a ''not significant'' rule under Executive Order 12866.

Larry Irving,

Assistant Secretary for Communications and Information.

[FR Doc. 97–1727 Filed 1–26–97; 8:45 am]

BILLING CODE 3510–60–P

Federal Register

Monday
January 27, 1997

Part III

Environmental Protection Agency

Certain Chemicals; Premanufacture Notices

ENVIRONMENTAL PROTECTION AGENCY

[OPPTS–51849; FRL–5575–4]

Certain Chemicals; Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5 of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical to notify EPA and comply with the statutory provisions pertaining to the manufacture or import of substances not on the TSCA Inventory. Section 5 of TSCA also requires EPA to publish receipt and status information in the Federal Register each month reporting premanufacture notices (PMN) and test marketing exemption (TME) application requests received, both pending and expired. The information in this document contains notices received from March 1, 1996 to March 31, 1996.

ADDRESSES: Written comments, identified by the document control number ''[OPPTS–51849]'' and the specific PMN number, if appropriate, should be sent to: Document Control Office (7407), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 401 M St., SW., Rm. ETG–099 Washington, DC 20460.

Comments and data may also be submitted electronically by sending electronic mail (e-mail) to: ncic@epamail.epa.gov. Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on disks in WordPerfect in 5.1 file format or ASCII file format. All comments and data in electronic form must be identified by the docket number [OPPTS–51849]. No Confidential Business Information (CBI) should be submitted through e-mail. Electronic comments on this notice may be filed online at many Federal Depository Libraries. Additional information on electronic submissions can be found under ''SUPPLEMENTARY INFORMATION'' of this document.

FOR FURTHER INFORMATION CONTACT: Susan B. Hazen, Director, Environmental Assistance Division (7408), Office of Pollution Prevention and Toxics, Environmental Protection Agency, Rm. E–545, 401 M St., SW., Washington, DC, 20460, (202) 554–1404, TDD (202) 554–0551; e-mail: TSCA-Hotline@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: Under the provisions of TSCA, EPA is required to publish notice of receipt and status reports of chemicals subject to section 5 reporting requirements. The notice requirements are provided in TSCA sections 5(d)(2) and 5(d)(3). Specifically, EPA is required to provide notice of receipt of PMNs and TME application requests received. EPA also is required to identify those chemical submissions for which data has been received, the uses or intended uses of such chemicals, and the nature of any test data which may have been developed. Lastly, EPA is required to provide periodic status reports of all chemical substances undergoing review and receipt of notices of commencement.

A record has been established for this notice under docket number ''[OPPTS–51849]'' (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 12 noon to 4 p.m., Monday through Friday, excluding legal holidays. The public record is located in the TSCA Nonconfidential Information Center (NCIC), Rm. NEM–B607, 401 M St., SW., Washington, DC 20460.

Electronic comments can be sent directly to EPA at:

oppt.ncic@epamail.epa.gov

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption.

The official record for this notice, as well as the public version, as described above will be kept in paper form. Accordingly, EPA will transfer all comments received electronically into printed, paper form as they are received and will place the paper copies in the official record which will also include all comments submitted directly in writing. The official record is the paper record maintained at the address in ''ADDRESSES'' at the beginning of this document.

In the past, EPA has published individual notices reflecting the status of section 5 filings received, pending or expired, as well as notices reflecting receipt of notices of commencement. In an effort to become more responsive to the regulated community, the users of this information and the general public, to comply with the requirements of TSCA, to conserve EPA resources, and to streamline the process and make it more timely, EPA is consolidating these separate notices into one comprehensive notice that will be issued at regular intervals.

In this notice, EPA shall provide a consolidated report in the Federal Register reflecting the dates PMN requests were received, the projected notice end date, the manufacturer or importer identity, to the extent that such information is not claimed as confidential and chemical identity, either specific or generic depending on whether chemical identity has been claimed confidential. Additionally, in this same report, EPA shall provide a listing of receipt of new notices of commencement.

EPA believes the new format of the notice will be easier to understand by the interested public, and provides the information that is of greatest interest to the public users. Certain information provided in the earlier notices will not be provided under the new format. The status reports of substances under review, potential production volume, and summaries of health and safety data will not be provided in the new notices.

EPA is not providing production volume information in the consolidated notice since such information is generally claimed as confidential. For this reason, there is no substantive loss to the public in not publishing the data. Health and safety data are not summarized in the notice since it is recognized as impossible, given the format of this notice, as well as the previous style of notices, to provide meaningful information on the subject. In those submissions where health and safety data were received by the Agency, a footnote is included by the Manufacturer/Importer identity to indicate its existence. As stated below, interested persons may contact EPA directly to secure information on such studies.

For persons who are interested in data not included in this notice, access can be secured at EPA Headquarters in the NCIC at the address provided above. Additionally, interested parties may telephone the Document Control Office at (202) 260–1532, TDD (202) 554–0551, for generic use information, health and safety data not claimed as confidential or status reports on section 5 filings.

Send all comments to the address listed above. All comments received will be reviewed and appropriate amendments will be made as deemed necessary.

This notice will identify: (I) PMNs received; and (II) Notices of Commencement to manufacture/import.

I. 128 Premanufacture Notices Received From: 03/01/96 to 03/31/96

Case No.	Received Date	Projected Notice End Date	Manufacturer/Importer	Use	Chemical
P–96–0753	03/01/96	05/30/96	Champion Technologies	(S) Corrosion inhibitor for oil and gas production and pipelines	(S) Alkyl pyridine; alkyldimethylamine; bis-2-chloroethyl ether
P–96–0759	03/01/96	05/30/96	H.B. Fuller Company	(S) Adhesive; film coating.	(G) Acrylate functionalized polyester
P–96–0760	03/01/96	05/30/96	H.B. Fuller company	(S) Adhesive; film coating.	(G) Acrylate functionalized polyester
P–96–0761	03/01/96	05/30/96	H.B. Fuller Company	(S) Adhesive; film coating.	(G) Acrylate functionalized polyester
P–96–0762	03/01/96	05/30/96	H.B. Fuller Company	(S) Adhesive; film coating.	(G) Acrylate functionalized polyester
P–96–0763	03/01/96	05/30/96	H.B. Fuller Company	(S) Adhesive; film coating.	(G) Acrylate functionalized polyester
P–96–0764	03/07/96	06/05/96	Moore Business Forms & Systems Division	(S) Intermediate to be converted to a paper additive.	(S) Elemental assay and ftir confirmed intermediate: 1(3*h*)-isobenzofuranone, 3-[4-(diethylamino)-2-hydroxyphenyl]-3-(2-hydroxy-1-naphthalenyl)
P–96–0765	03/07/96	06/05/96	CBI	(S) Catalyst for polyurethane foam manufacture	(G) Mono and di-amine/acid salt carboxylates
P–96–0766	03/07/96	06/05/96	CBI	(S) Surfactant in polyurethane foam manufacture	(G) Minor component of uax-6180, niax surfactants l-540,l-580
P–96–0767	03/06/96	06/04/96	Ciba-Geigy Corporation, Textile Products Division	(G) Textile dye	(G) Substituted pyridine azo substituted phenyl
P–96–0768	03/06/96	06/04/96	CBI	(G) Component of coating with dispersive use	(G) Aceto acetylated polyester
P–96–0769	03/07/96	06/05/96	CBI	(S) Organic pigment for automotive and industrial coatings	(G) Naphthalenecarboxamide, *N*-(substituted phenyl)-[[substituted phenyl] azo]-hydroxy-
P–96–0770	03/07/96	06/05/96	CBI	(S) Orginic pigment for automotive and industrial coatings	(G) Naphthalene carboxamide, *N*-(substituted phenyl)-[[substituted phenyl] azo]-hydroxy-
P–96–0771	03/08/96	06/06/96	CBI	(G) Chemical intermediate	(G) Macrocyclic hydroperoxide
P–96–0772	03/08/96	06/06/96	Champion Technologies	(S) Used as a down-hole fluid-loss additive for oil well stimulation	(S) Cellulose, 2-hydroxyethyl ether, reaction products with ethenyl phosphonic acid, calcium magnesium salts; cellulose, 2-hydroxyethyl ether, reaction product with ethenyl phosphonic acid, zinc salts; cellulose, 2-hydroxyethyl ether, reaction products with ethenyl phosphonic acid, calcium salts
P–96–0773	03/08/96	06/02/96	Ciba-Geigy Corporation, Textile Products Division	(G) Textile dye	(G) Substitued pyridine azo substituted phenyl
P–96–0774	03/08/96	06/06/96	CBI	(S) Resin for adhesives	(G) Modified hydrocarbon resin
P–96–0775	03/08/96	06/06/96	CBI	(S) Resin for adhesives	(G) Modified hydrocarbon resin
P–96–0776	03/08/96	06/06/96	CBI	(S) Resin for adhesives	(G) Modified hydrocarbon resin
P–96–0777	03/08/96	06/06/96	CBI	(S) Resin for adhesives	(G) Modified hydrocarbon resin
P–96–0778	03/08/96	06/06/96	CBI	(S) Resin for adhesives	(G) Modified hydrocarbon resin
P–96–0779	03/08/96	06/06/96	CBI	(S) Resin for adhesives	(G) Modified hydrocarbon resin
P–96–0780	03/08/96	06/06/96	CBI	(S) Resin for adhesives	(G) Modified hydrocarbon resin
P–96–0781	03/08/96	06/06/96	CBI	(S) Resin for adhesives	(G) Modified hydrocarbon resin
P–96–0782	03/08/96	06/06/96	CBI	(S) Resin for adhesives	(G) Modified hydrocarbon resin
P–96–0783	03/11/96	06/03/96	Monsanto Company	(S) Nylon polymer additive	(G) Sulfonated aromatic acid with diamine
P–96–0784	03/11/96	06/03/96	Monsanto Company	(S) Stain inhibitor for nylon fibers	(G) Sulfonated nylon copolymer
P–96–0785	03/11/96	06/09/96	Dow Corning	(S) Siloxane cure catalyst	(G) Tetraalkoxytitanate
P–96–0786	03/12/96	06/10/96	CBI	(S) Releasing oil	(G) Heptadecafluoroundecyl fluorosilicone
P–96–0787	03/12/96	06/10/96	Cytec Industries	(G) To catalyze the reaction between two or more chemical species dissolved in immiscribe , usually liquid, phases	(S) Phosphonium, octadecyltriotyl-, iodide (9cl)
P–96–0788	03/13/96	06/11/96	CBI	(G) Binder	(S) Polymer of: phenol; 2-propanone, reaction products with phenol; formaldehyde
P–96–0789	03/12/96	06/10/96	Engelhard Corporation	(S) As an organic poigment in plastics, coating and inks	(G) Metallized azo yellow pigment
P–96–0790	03/08/96	06/06/96	Champion Technologies	(S) Used as a down-hole fluid-loss additive for oil well stimulation	(S) Cellulose, 2-hydroxyethyl ether, reaction products with ethenyl phosphonic acid, calcium magnesium salts

I. 128 Premanufacture Notices Received From: 03/01/96 to 03/31/96—Continued

Case No.	Received Date	Projected Notice End Date	Manufacturer/Importer	Use	Chemical
P–96–0791	03/08/96	06/06/96	Champion technologies	(S) Used as a down-hole fluid-loss additive for oil well stimulation	(S) Cellulose, 2-hydroxyethyl ether, reaction products with ethenyl phosphonic acid, zinc salts
P–96–0792	03/08/96	06/06/96	Champion Technologies	(S) Used as a down-hole fluid-loss additive for oil well stimulation	(S) Cellulose, 2-hydroxyethyl ether, reaction products with ethenyl phosphonic acid, calcium salts
P–96–0793	03/11/96	06/09/96	CBI	(G) Processing aid	(G) Salt of a fatty acid-amine reaction product
P–96–0794	03/11/96	06/09/96	CBI	(G) Processing aid	(G) Derivative of a fatty alkyldiamine
P–96–0795	03/11/96	06/09/96	CBI	(G) Processing aid	(G) Mixed fatty alkyldiamines, salt
P–96–0796	03/11/96	06/09/96	CBI	(G) Processing aid	(G) Derivative of fatty alkanepolyamine
P–96–0797	03/11/96	06/09/96	CBI	(G) Processing aid	(G) Salt of a modified tallow alkanepolyamine
P–96–0798	03/11/96	06/09/96	3m Company	(S) Film forming polymer	(G) Polyurethane polymer
P–96–0799	03/12/96	06/10/96	Fiber-Resins Corporation	(S) Potting compound	(G) Aromatic isocyanate prepolymer
P–96–0800	03/12/96	06/10/96	Fiber-Resins Corporation	(S) Castable urethane	(G) Aliphatic isocyanate prepolymer
P–96–0801	03/12/96	06/10/96	Fiber-Resins Corporation	(S) To make a mold used to cast tools	(G) Aromatic isocyanate prepolymer
P–96–0802	03/12/96	06/10/96	3M Company	(G) Binder resin	(G) Caprolactone polyurethane
P–96–0803	03/13/96	06/11/96	High Point Chemical Corporation	(G) Acid generator for PH control of dyebath	(G) Organic formate
P–96–0804	03/13/96	06/11/96	High Point Chemical Corporation	(G) Acid generator for PH control of dyebath	(G) Organic formate
P–96–0805	03/13/96	06/11/96	CBI	(S) Site limited intermediate	(G) Propanenitrile, 3-[[3-(alkyloxy)propyl]amino]-
P–96–0806	03/12/96	06/10/96	Fiber-Resins Corporation	(S) To make a mold used to cast tools	(G) Aromatic isocyanate prepolymer
P–96–0807	03/13/96	06/11/96	CBI	(G) Processing aid	(G) Salt of a fatty alkylamine derivative
P–96–0808	03/13/96	06/11/96	CBI	(G) Processing aid	(G) Derivative of a modified alkali lignin reaction product
P–96–0809	03/14/96	06/12/96	CBI	(G) Open non dispersive	(G) Sulfated sorbitan derivative
P–96–0810	03/14/96	06/12/96	CBI	(G) Industrial coating for open, non-disperive use	(G) Acrylate functional polyurethane resin
P–96–0811	03/14/96	06/12/96	Mitsubishi Chemical Industries Inc.	(S) Chelating agent	(G) Phosphonic acid compound
P–96–0812	03/15/96	06/13/96	Great Lakes Chemical Company	(S) An antioxidant additive for lubricants and oils; an antioxidant additive for plastics and rubber materials	(G) Substituted benzene propanoic acid, alkyl ester
P–96–0813	03/15/96	06/13/96	CBI	(G) Mediator in enzyme catalyzed reactions	(G) Phenothiazine derivative
P–96–0814	03/13/96	06/11/96	Unitika America Corporation	(S) Additive in polymer.	(S) Magnesium sodium fluoride silicate (mg5na2f4(si205)4)
P–96–0815	03/18/96	06/16/96	Essex Specialty Products, Inc.	(S) Polymer catalyst used in sealant manufacturing	(G) Isocyanate functional polypropylene and polyethylene catalyst
P–96–0816	03/18/96	06/16/96	Nippon Zeon of America, Inc.	(G) Photosensitive resin composition	(G) Half esterified maleinized polybutadiene
P–96–0817	03/15/96	06/13/96	CBI	(S) Organic synthesis intermediate	(G) 2-substituted phenol -4-(2-aminoethyl) sulfonamide, hydrochloride
P–96–0818	03/15/96	06/13/96	CBI	(G) Detergent additive	(G) Substituted aryl dicarboxylic acid/diol copolymer
P–96–0819	03/15/96	06/13/96	CBI	(S) Organic synthesis intermediate	(G) 1-Hydroxy-2-nitro-4-(2-aminoethyl) benzene derivative, hydrochoride
P–96–0820	03/15/96	06/13/96	CBI	(S) Binder resin in overprint lacquers; binder resin in cold seal release lacquers	(G) Fatty acids, C_{18}-unsatd., dimers polymers with ethylenediamine, a monobasic acid and a diamine.
P–96–0821	03/15/96	06/13/96	CBI	(S) Laminatinh adhesive	(G) Polyester polyurethane methacrylic graft copolymer
P–96–0822	03/20/96	06/18/96	Lanier Worldwide Inc.	(G) The pmn substance is for use as a component of toner for copiers	(G) Quarternary ammonium salt of fluorinated alklyl-aryl amide
P–96–0823	03/20/96	06/18/96	Champion Technologies	(S) Corrosion inhibitor for oil and gas production and pipelines	(S) Pyridinuim, alkyl 1-[2-[2-($C_{12–16}$–alkyldimethylammonio)ethoxy]ethyl]derivs., dichlorides
P–96–0824	03/18/96	06/16/96	Bimax, Inc	(S) Monomer (polymeric intermediate)	(G) Acrylate ester

I. 128 Premanufacture Notices Received From: 03/01/96 to 03/31/96—Continued

Case No.	Received Date	Projected Notice End Date	Manufacturer/Importer	Use	Chemical
P–96–0825	03/20/96	06/18/96	GE Silicones	(S) Uv stabilizer for plastics	(S) Methanone, [4,6-dihydroxy-5-[3-(trirthoxysily)propyl]-1-3-phenyl-ene]bis[phenyl
P–96–0826	03/20/96	06/18/96	GE Silicones	(S) Intermediate for pmn GE071	(S) Methanone, [4,6-dihydroxy-1-3-phenylene]bis[phenyl
P–96–0827	03/20/96	06/18/96	GE Silicones	(S) Intermediate for pmn GE072	(S) Methanone, [4,6-dihydroxy-5-(2-propenyl)-1-3-phenylene]bis[phenyl
P–96–0828	03/19/96	06/17/96	3M Company	(G) Binder resin	(G) Caprolactone polyurethane
P–96–0829	03/21/96	06/18/96	CBI	(G) Open, non-dispersive	(G) Alkyl phosphoro salt
P–96–0830	03/25/96	06/23/96	CBI	(G) Flame retardant	(G) Flame retardant acrylic polymer
P–96–0831	03/25/96	06/23/96	CBI	(G) Open, non-dispersive	(G) Polyurethane dispersion
P–96–0832	03/25/96	06/23/96	CBI	(G) Open, non-dispersive	(G) Polyacrylate containing hydroxyl groups
P–96–0833	03/26/96	06/24/96	H.b. fuller company	(S) Fiberglasss sizing	(G) Ester functionalized polymer
P–96–0834	03/26/96	06/24/96	Henkel Corporation	(G) Dye fixative	(G) Acrylic polymer
P–96–0835	03/25/96	06/23/96	Stepan Chemical Company	(G) Detergent and personal care	(G) Sugar ester
P–96–0836	03/25/96	06/23/96	Hoechst Celanese Corporation	(S) Paints & varnishes	(G) Vegetable fatty acids, pentaerythritol ester graft copolymer, ammonium salt
P–96–0837	03/26/96	06/24/96	Elf Atochem North America, Inc.	(G) Polymeric film	(S) Hydroxyterminated 1,3-butadiene homopolymer; dimethyl meta-isopropenyl benzyl isocyanate; dibutyltin dilaurate
P–96–0838	03/26/96	06/24/96	CBI	(G) Polymerization co-catalyst	(G) Di-alkyl-dialkoxy silane
P–96–0839	03/26/96	06/24/96	CBI	(G) Polymerization co-catalyst	(G) Metal alkyl chloride
P–96–0840	03/28/96	06/26/96	Basf Corporation	(S) Chelate in cleaning products; chelate in metal plating; chelate in photographic baths; chelate in water softening; chelate in pulp/paper bleaching	(S) Dl-alanine, *N,N*-bis(carbooxymethyl)-, trisodium salt
P–96–0841	03/28/96	06/26/96	CBI	(S) Coatings	(G) Polymer of polyisocyanate with extended hydroxy esters of carbamic acid and alcohol
P–96–0842	03/28/96	06/26/96	CBI	(S) Coatings	(G) Polymer of polyisocyanate with extended hydroxy esters of carbamic acid and alcohol
P–96–0843	03/28/96	06/26/96	CBI	(S) Coatings	(G) Polymer of polyisocyanate with extended hydroxy esters of carbamic acid and alcohol
P–96–0844	03/28/96	06/26/96	CBI	(S) Coatings	(G) Polymer of polyisocyanate with extended hydroxy esters of carbamic acid and alcohol
P–96–0845	03/28/96	06/26/96	CBI	(S) Coatings	(G) Polymer of polyisocyanate with extended hydroxy esters of carbamic acid and alcohol
P–96–0846	03/28/96	06/25/96	CBI	(S) Coatings	(G) Polymer of polyisocyanate with extended hydroxy esters of carbamic acid and alcohol
P–96–0847	03/28/96	06/26/96	CBI	(S) Coatings	(G) Polymer of polyisocyanate with extended hydroxy esters of carbamic acid and alcohol
P–96–0848	03/28/96	06/26/96	CBI	(S) Coatings	(G) Polymer of polyisocyanate with extended hydroxy esters of carbamic acid and alcohol
P–96–0849	03/28/96	06/26/96	CBI	(S) Coatings	(G) Polymer of polyisocyanate with extended hydroxy esters of carbamic acid and alcohol
P–96–0850	03/28/96	06/26/96	CBI	(S) Coatings	(G) Polymer of polyisocyanate with extended hydroxy esters of carbamic acid and alcohol
P–96–0851	03/28/96	06/26/96	CBI	(S) Coatings	(G) Polymer of polyisocyanate with extended hydroxy esters of carbamic acid and alcohol
P–96–0852	03/27/96	06/26/96	CBI	(S) Binder resin for hot-melt jet marking ink	(S) Fatty acids, C_{18}–unsaturated dimers, hydrogenated, reaction products with C_{14} alcs. and hexamethylenediamine
P–96–0853	03/27/96	06/25/96	CBI	(G) Open, non-dispersive	(G) Aliphatic polymer salt

I. 128 Premanufacture Notices Received From: 03/01/96 to 03/31/96—Continued

Case No.	Received Date	Projected Notice End Date	Manufacturer/Importer	Use	Chemical
P–96–0854	03/27/96	06/25/96	Engelhard Corporation	(S) As an organic pigment in plastics and coatings and inks	(G) Axo red pigment
P–96–0855	03/27/96	06/25/96	Engelhard Corporation	(S) As an organic pigment in plastics and coatings and inks	(G) Axo red pigment
P–96–0856	03/27/96	06/25/96	Engelhard Corporation	(S) As an organic pigment in plastics and coatings and inks	(G) Axo red pigment
P–96–0857	03/27/96	06/25/96	Engelhard Corporation	(S) As an organic pigment in plastics and coatings and inks	(G) Axo red pigment
P–96–0858	03/28/96	06/26/96	CBI	(S) Acid dye for coloring leather	(G) 2,7-naphthalenedisulfonic acid, 4-amino-5-hydroxy-3-substituted azo-6-substituted azo-, sodium salt
P–96–0859	03/27/96	06/25/96	CBI	(G) Open, non-dispersive	(G) Aliphatic polymer mixed salt
P–96–0860	03/28/96	06/26/96	CBI	(G) Lubricant additive	(G) Polyolefin amide alkeneamine
P–96–0861	03/28/96	06/26/96	NOF America Corporation	(S) Compatibilizing agent for polymer blends	(G) Acrylate polymer
P–96–0862	03/28/96	06/26/96	CBI	(G) Open, non-dispersive	(G) Polyurethane dispersion
P–96–0863	03/28/96	06/26/96	CBI	(G) Open, non-dispersive	(G) Aqueous hydroxyl-bearing polyester/polyacrylate copolymer
P–96–0864	03/28/96	06/26/96	CBI	(G) Raw material for coatings for wood	(G) Acid curing acrylic dispersion
P–96–0865	03/29/96	06/27/96	CBI	(G) Polymeric colorant	(G) Chromophore substituted polyoxyalkylene tint
P–96–0866	03/29/96	06/27/96	CBI	(G) Processing aid	(G) Derivative of substituted carbomonocyclic carboxylic acid-amine distillation stream byproduct reaction product
P–96–0867	03/29/96	06/27/96	CBI	(G) Processing aid	(G) Derivative of a modified tall oil polyalkylene polyamine
P–96–0868	03/29/96	06/27/96	CBI	(G) Processing aid	(G) Salt of the reaction product of kraft lignin, mixed fatty acids and ethyleneamines
P–96–0869	03/29/96	06/27/96	CBI	(G) Chemical intermediate with destructive use	(G) Modified polyester diol
P–96–0870	03/29/96	06/27/96	CBI	(G) Chemical intermediate with destructive use	(G) Modified polyester diol
P–96–0871	03/29/96	06/27/96	CBI	(G) Chemical intermediate with destructive use	(G) Modified polyester diol
P–96–0872	03/29/96	06/27/96	CBI	(G) Film additive	(G) Substituted imidazole
P–96–0873	03/29/96	06/27/96	CBI	(G) Chemical intermediate (destructive)	(G) Substituted imidazole
P–96–0877	03/29/96	06/27/96	CBI	(G) Component of coating with open use	(G) Polyurethane acrylate
P–96–0878	03/29/96	06/27/96	CBI	(G) Component of coating with open use	(G) Polyurethane acrylate
P–96–0879	03/29/96	06/27/96	CBI	(G) Component of coating with open use	(G) Polyurethane acrylate
P–96–0880	03/29/96	06/27/96	CBI	(G) Component of coating with open use	(G) Polyurethane acrylate
P–96–0881	03/29/96	06/27/96	CBI	(G) Component of coating with open use	(G) Polyurethane acrylate
P–96–0882	03/29/96	06/27/96	CBI	(G) Component of coating with open use	(G) Polyurethane acrylate
P–96–0883	03/29/96	06/27/96	CBI	(G) Component of coating with open use	(G) Polyurethane acrylate
P–96–0884	03/29/96	06/27/96	CBI	(G) Component of coating with open use	(G) Polyurethane acrylate
P–96–0885	03/29/96	06/27/96	CBI	(G) Component of coating with open use	(G) Polyurethane acrylate
P–96–0886	03/29/96	06/27/96	CBI	(G) Component of coating with open use	(G) Polyurethane acrylate
P–96–0887	03/29/96	06/27/96	CBI	(G) Component of coating with open use	(G) Polyurethane acrylate
P–96–0888	03/29/96	06/27/96	CBI	(G) Component of coating with open use	(G) Polyurethane acrylate

II. 52 Notices of Commencement Received From: 03/01/96 to 03/31/96

Case No.	Received Date	Commence-ment/Import Date	Chemical
P–92–1292	03/26/96	03/17/96	(S) Fatty acids, $C_{16–18}$ and C_{18} unsaturated, branched and linear, distn. lights
P–93–1056	03/01/96	02/23/96	(G) Polyester of aryl and alkyl dicarboxylic acids/anhydrides and cyclic diol
P–94–0351	03/06/96	02/25/96	(G) Halogenated indane
P–94–0460	03/29/96	03/13/96	(G) Phosphoric acid fatty alcohol polyethyleneglycol ester
P–94–0987	03/14/96	11/30/95	(G) Unsaturated urethane acrylate
P–94–1100	03/21/96	03/13/96	(G) Rosin, maleated, polymer with an alkylphenol, carboxylic acids, formaldehyde and a polyol
P–94–1512	03/25/96	02/23/96	(G) Bis phenyl substituted urea
P–95–0273	03/04/96	02/12/96	(S) A polymer of: 1,6-hexanediol; 2-ethyl-2(hydroxymethyl)-1,3-propanediol; 1,4-cyclohexane dicarboxylic acid; isophorone diisocyanate; hexahydrophthalic acid; 2-oxepanone
P–95–0352	03/11/96	03/04/96	(G) An azo monochloro triazine reactive dye
P–95–0435	03/12/96	02/22/96	(G) Substituted quinoline
P–95–0782	03/08/96	03/07/96	(G) Substituted phenyl azo substituted phenyl amino ester
P–95–0946	03/01/96	02/02/96	(G) Reaction product of 3-alkoxy-2,2-dialkylpropanol, 2-(alkylphenoxy)ethanol and dialkylcarbonate
P–95–1028	03/22/96	02/25/96	(G) Bacillus thuringiensis delta entoxin genes
P–95–1055	03/22/96	02/23/96	(G) Closs linked acrylic random copolymer
P–95–1100	03/21/96	02/22/96	(G) Polymer of 1,2-ethanediol and aromatic esters
P–95–1229	03/15/96	03/08/96	(G) Polyether polyurea urethane
P–95–1362	03/12/96	02/21/96	(G) Substituted quinoline
P–95–1507	03/26/96	03/11/96	(G) Modified diphenylmethane diisocyanate
P–95–1511	03/26/96	01/23/96	(G) Monosubstituted tetrazole, salt
P–95–1514	03/07/96	02/15/96	(S) A polymer of: 2,5-furandione; amines, $C_{14–18}$–alkyl; octadecene; benzenesulfonic acid, 4-methyl; benzene carboperoxoic acid, 1,1-dimethylethyl ester
P–95–1698	03/05/96	02/09/96	(G) Aliphatic acrylourethane oligomer
P–95–1737	03/22/96	03/05/96	(G) Polyesteramine quat
P–95–1834	03/22/96	03/11/96	(G) Polyester polyurethane
P–95–1845	03/19/96	02/21/96	(S) Polymer of dehydrated castor oil; soybean oil; and pentaerythritol
P–95–1950	03/11/96	03/05/96	(G) Phosphonate
P–95–1952	03/26/96	03/18/96	(G) Diketo-pyrrolopyrrol
P–95–1995	03/21/96	03/07/96	(G) Polyurethane
P–95–2032	03/20/96	02/29/96	(G) Double metal cyanide complex
P–95–2037	03/26/96	02/29/96	(G) Quaternary ammonium halide
P–95–2039	03/26/96	03/05/96	(G) Monosubstituted cycloaliphatic isocyanate, urethane with hydroxyalkyl substituted heterocycle
P–95–2065	03/08/96	02/12/96	(G) Anionic aliphatic polyurethane dispersion
P–95–2074	03/11/96	02/02/96	(G) Unsaturated polymide and acid ester salts
P–95–2114	03/06/96	02/28/96	(G) Benzenesulfonic acid, amino substituted phenyl soduim salt
P–96–0012	03/12/96	03/04/96	(G) Polymeric colorant of 9,10-dihydro-9,10-dioxo-1,4-anthracenediamine
P–96–0017	03/11/96	02/02/96	(G) High molecular weight carboxylic acid salts
P–96–0024	03/08/96	02/16/96	(G) Modified acrylic polymer
P–96–0032	03/05/96	02/21/96	(G) Monoalkenyl ester of methoxy-poly(ethylene glycol)
P–96–0153	03/21/96	03/06/96	(G) Water-based polyurethane
P–96–0155	03/06/96	02/23/96	(G) Epoxy resin-fatty acids copolymer
P–96–0160	03/20/96	03/05/96	(G) Polyurethane adhesive
P–96–0165	03/26/96	03/15/96	(G) Acrylate copolymer
P–96–0173	03/14/96	02/24/96	(G) Propenyl amine, polymer
P–96–0176	03/26/96	02/23/96	(G) Organosilane surface-treared silicate
P–96–0182	03/15/96	03/06/96	(G) Complex reaction product of hydrogenated vegetable oil and synthetic C_{18} triglyceride
P–96–0207	03/25/96	03/19/96	(G) Aralkylphenolic
P–96–0208	03/25/96	03/19/96	(G) Propoxylated aralkyl phenolic
P–96–0209	03/28/96	03/13/96	(G) Ammonium poly acrylate
P–96–0225	03/19/96	03/06/96	(G) Substituted phthaloperine
P–96–0236	03/27/96	03/26/96	(S) 1-Tridecyn-3-ol, 3-methyl-
P–96–0237	03/27/96	03/26/96	(S) 3,5-tetrasiloxanediol,1,1,1,3,5,7,7,7-octamethyl
P–96–0290	03/27/96	03/21/96	(G) Alkenal
P–96–0299	03/27/96	03/26/96	(S) Polymer of: siloxanes and silicones, 3-[(2-aminoethyl)amino]propyl me, di-me, methoxy-terminated; poly(oxy-1,2-ethanediyl), .alpha. -butyl- .omega-. (oxiranylmethoxy)-

List of Subjects

Environmental protection, Premanufacture notices.

Dated: January 7, 1997.

George A. Bonina,

Acting Director, Information Management Division, Office of Pollution Prevention and Toxics.

[FR Doc. 97–1876 Filed 1–24–97; 8:45 am]

BILLING CODE 6560-50-P

Federal Register

Monday
January 27, 1997

Part IV

Environmental Protection Agency

Certain Chemicals; Premanufacture Notices

ENVIRONMENTAL PROTECTION AGENCY

[OPPTS–51850; FRL–5575–5]

Certain Chemicals; Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5 of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical to notify EPA and comply with the statutory provisions pertaining to the manufacture or import of substances not on the TSCA Inventory. Section 5 of TSCA also requires EPA to publish receipt and status information in the Federal Register each month reporting premanufacture notices (PMN) and test marketing exemption (TME) application requests received, both pending and expired. The information in this document contains notices received from April 1, 1996 to April 30, 1996.

ADDRESSES: Written comments, identified by the document control number ''[OPPTS–51850]'' and the specific PMN number, if appropriate, should be sent to: Document Control Office (7407), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 401 M St., SW., Rm. ETG–099 Washington, DC 20460.

Comments and data may also be submitted electronically by sending electronic mail (e-mail) to: ncic@epamail.epa.gov. Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on disks in WordPerfect in 5.1 file format or ASCII file format. All comments and data in electronic form must be identified by the docket number [OPPTS–51850]. No Confidential Business Information (CBI) should be submitted through e-mail. Electronic comments on this notice may be filed online at many Federal Depository Libraries. Additional information on electronic submissions can be found under ''SUPPLEMENTARY INFORMATION'' of this document.

FOR FURTHER INFORMATION CONTACT: Susan B. Hazen, Director, Environmental Assistance Division (7408), Office of Pollution Prevention and Toxics, Environmental Protection Agency, Rm. E–545, 401 M St., SW., Washington, DC, 20460, (202) 554–1404, TDD (202) 554–0551; e-mail: TSCA-Hotline@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: Under the provisions of TSCA, EPA is required to publish notice of receipt and status reports of chemicals subject to section 5 reporting requirements. The notice requirements are provided in TSCA sections 5(d)(2) and 5(d)(3). Specifically, EPA is required to provide notice of receipt of PMNs and TME application requests received. EPA also is required to identify those chemical submissions for which data has been received, the uses or intended uses of such chemicals, and the nature of any test data which may have been developed. Lastly, EPA is required to provide periodic status reports of all chemical substances undergoing review and receipt of notices of commencement.

A record has been established for this notice under docket number ''[OPPTS–51850]'' (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 12 noon to 4 p.m., Monday through Friday, excluding legal holidays. The public record is located in the TSCA Nonconfidential Information Center (NCIC), Rm. NEM–B607, 401 M St., SW., Washington, DC 20460.

Electronic comments can be sent directly to EPA at:

oppt.ncic@epamail.epa.gov

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption.

The official record for this notice, as well as the public version, as described above will be kept in paper form. Accordingly, EPA will transfer all comments received electronically into printed, paper form as they are received and will place the paper copies in the official record which will also include all comments submitted directly in writing. The official record is the paper record maintained at the address in ''ADDRESSES'' at the beginning of this document.

In the past, EPA has published individual notices reflecting the status of section 5 filings received, pending or expired, as well as notices reflecting receipt of notices of commencement. In an effort to become more responsive to the regulated community, the users of this information and the general public, to comply with the requirements of TSCA, to conserve EPA resources, and to streamline the process and make it more timely, EPA is consolidating these separate notices into one comprehensive notice that will be issued at regular intervals.

In this notice, EPA shall provide a consolidated report in the Federal Register reflecting the dates PMN requests were received, the projected notice end date, the manufacturer or importer identity, to the extent that such information is not claimed as confidential and chemical identity, either specific or generic depending on whether chemical identity has been claimed confidential. Additionally, in this same report, EPA shall provide a listing of receipt of new notices of commencement.

EPA believes the new format of the notice will be easier to understand by the interested public, and provides the information that is of greatest interest to the public users. Certain information provided in the earlier notices will not be provided under the new format. The status reports of substances under review, potential production volume, and summaries of health and safety data will not be provided in the new notices.

EPA is not providing production volume information in the consolidated notice since such information is generally claimed as confidential. For this reason, there is no substantive loss to the public in not publishing the data. Health and safety data are not summarized in the notice since it is recognized as impossible, given the format of this notice, as well as the previous style of notices, to provide meaningful information on the subject. In those submissions where health and safety data were received by the Agency, a footnote is included by the Manufacturer/Importer identity to indicate its existence. As stated below, interested persons may contact EPA directly to secure information on such studies.

For persons who are interested in data not included in this notice, access can be secured at EPA Headquarters in the NCIC at the address provided above. Additionally, interested parties may telephone the Document Control Office at (202) 260–1532, TDD (202) 554–0551, for generic use information, health and safety data not claimed as confidential or status reports on section 5 filings.

Send all comments to the address listed above. All comments received will be reviewed and appropriate amendments will be made as deemed necessary.

This notice will identify: (I) PMNs received; and (II) Notices of Commencement to manufacture/import.

I. 140 Premanufacture Notices Received From: 04/01/96 to 04/30/96

Case No.	Received Date	Projected Notice End Date	Manufacturer/Importer	Use	Chemical
P–96–0874	04/01/96	06/30/96	Mitsubishi Chemical America, Inc	(G) Dyestuff for inkjet ink	(G) Napthalene sulfonic acid derivative
P–96–0875	04/01/96	06/30/96	CBI	(S) Fuel additive; industrial lubricant additive	(S) Amides, canola-oil
P–96–0876	04/01/96	06/30/96	Kanzaki Specialty Papers Inc.	(S) Dye developer for thermal copy paper	(S) Benzenesulfonamide, *N,N*-[methylenebis(4,1-phenyleneiminocarbonyl)]bis[4-methyl-
P–96–0889	04/02/96	07/01/96	Ciba-Geigy Corporation	(G) Textile chemicals	(G) Copper dicalicylidine complex
P–96–0890	04/02/96	07/01/96	LG Chemical	(S) Disperse dye for polyester	(G) Styrrl disperse dye
P–96–0891	04/03/96	07/02/96	CBI	(G) Polymeric component of an ink or coating	(G) Acrylic/aromatic copolymer
P–96–0892	04/03/96	07/02/96	CBI	(G) Polymeric component of an ink or coating	(G) Ammonium salt of acrylic/aromatic copolymer
P–96–0893	04/03/96	07/02/96	CBI	(G) Polymeric component of an ink or coating	(G) Monoethanol amine salt of acrylic / aromatic copolymer
P–96–0894	04/03/96	07/02/96	CBI	(G) Polymeric component of an ink or coating	(G) Dimethylaminoethanol salt of acrylic/aromatic copolymer
P–96–0895	04/03/96	07/02/96	CBI	(G) Polymeric component of an ink or coating	(G) Morpholine salt of acrylic/aromatic copolymer
P–96–0896	04/03/96	07/02/96	CBI	(G) Polymeric component of an ink or coating	(G) Sodium salt of acrylic/aromatic copolymer
P–96–0897	04/03/96	07/02/96	Arizona chemical	(G) Destructive use; odor enhancer	(G) Terpene residue distillates
P–96–0898	04/03/96	07/02/96	CBI	(G) Polymeric component of an ink or coating	(G) Acrylic/aromatic copolmer
P–96–0899	04/03/96	07/02/96	CBI	(G) Polymeric component of an ink or coating	(G) Ammonium salt of an acrylic/aromatic copolmer
P–96–0900	04/03/96	07/02/96	CBI	(G) Polymeric component of an ink or coating	(G) Monoethanolamine salt of an acrylic/aromatic copolymer
P–96–0901	04/03/96	07/02/96	CBI	(G) Polymeric component of an ink or coating	(G) Dimethylamino ethanol salt of an acrylic/aromatic copolymer
P–96–0902	04/03/96	07/02/96	CBI	(G) Polymeric component of an ink or coating	(G) Morpholine salt of an acrylic/aromatic copolymer
P–96–0903	04/03/96	07/02/96	CBI	(G) Polymeric component of an ink or coating	(G) Sodium salt of an acrylic/ aromatic copolymer
P–96–0904	04/04/96	07/03/96	Gelest, Inc	(S) Intermediate for production of silanes used in surface treatment; pharmarentical intermediate; research purposes	(S) Silane, chlorobis(1-methylethyl)
P–96–0905	04/04/96	07/03/96	Shell Chemical Company	(S) Non-ionic surfactant	(S) Alcohol, C_{9-11}, ethoxylated proproxylated
P–96–0906	04/04/96	07/03/96	Shell Chemical Company	(S) Non-ionic surfactant	(S) Oxirane, methyl-, polymer with oxirane, mono-undecyl ether
P–96–0907	04/04/96	07/03/96	CBI	(G) Binder; crosslinker	(G) Alcohol, aldehyde, melamine reaction products
P–96–0908	04/04/96	07/03/96	CBI	(G) Binder; crosslinker	(G) Alcohol, aldehyde, melamine reaction products
P–96–0909	04/04/96	07/03/96	CBI	(G) Binder; crosslinker	(G) Alcohol, aldehyde, melamine reaction products
P–96–0910	04/04/96	07/03/96	CBI	(G) Binder; crosslinker	(G) Alcohol, aldehyde, amide, melamine reaction products
P–96–0911	04/04/96	07/03/96	CBI	(G) Binder; crosslinker	(G) Alcohol, aldehyde, glyceride, melamine reaction products
P–96–0912	04/04/96	07/03/96	CBI	(G) Binder; crosslinker	(G) Alcohol, aldehyde, glyceride, melamine reaction products
P–96–0913	04/04/96	07/03/96	CBI	(G) Binder; crosslinker	(G) Alcohol, aldehyde, melamine reaction products
P–96–0914	04/04/96	07/03/96	CBI	(G) Binder; crosslinker	(G) Alcohol, aldehyde, melamine reaction products
P–96–0915	04/04/96	07/03/96	CBI	(G) Binder; crosslinker	(G) Alcohol, aldehyde, melamine reaction products
P–96–0916	04/04/96	07/03/96	Unitika America Corporation	(S) Additive in polymer	(S) Magnesium sodium fluoride silicate (mg5na2f4(si2o5)4)
P–96–0917	04/05/96	07/04/96	Essex Specialty Products, Inc.	(S) Polymer used in sealant manufacture	(G) Isocyanate terminated dicarboxylic acid based urethane oligomer
P–96–0918	04/05/96	07/04/96	CBI	(G) Coating material	(G) Polycarbonate based polyurethane urea
P–96–0919	04/08/96	07/07/96	CBI	(G) Waterproofing additive	(G) Modified polymethyl siloxane

I. 140 Premanufacture Notices Received From: 04/01/96 to 04/30/96—Continued

Case No.	Received Date	Projected Notice End Date	Manufacturer/Importer	Use	Chemical
P–96–0920	04/08/96	07/07/96	CBI	(G) Industrial intermediate compounded with pigments and binders which is heat treated when coated onto substrates (open, non-dispersive use: coating).	(G) Metalated alkylphenol copolymer
P–96–0921	04/08/96	07/07/96	CBI	(G) Chemical intermediate (destructive use)	(G) Substituted thiazole
P–96–0922	04/09/96	07/08/96	CBI	(G) Raw material for coatings for plastics.	(G) Polyurethane resin
P–96–0923	04/09/96	07/08/96	CBI	(G) Film additive	(G) Substituted thiazole
P–96–0924	04/08/96	07/07/96	CBI	(S) Coatings	(G) Polymer of polyisocyanate with extended hydroxy esters of carbamic acid and alcohol
P–96–0925	04/08/96	07/07/96	CBI	(S) Coatings	(G) Polymer of polyisocyanate with extended hydroxy esters of carbamic acid and alcohol
P–96–0926	04/08/96	07/07/96	CBI	(S) Coatings	(G) Polymer of polyisocyanate with extended hydroxy esters of carbamic acid and alcohol
P–96–0927	04/08/96	07/07/96	CBI	(S) Coatings	(G) Polymer of polyisocyanate with extended hydroxy esters of carbamic acid and alcohol.
P–96–0928	04/08/96	07/07/96	CBI	(S) Coatings	(G) Polymer of polyisocyanate with extended hydroxy esters of carbamic acid and alcohol
P–96–0929	04/08/96	07/07/96	CBI	(S) Coatings	(G) Polymer of polyisocyanate with extended hydroxy esters of carbamic acid and alcohol
P–96–0930	04/08/96	07/07/96	CBI	(S) Coatings	(G) Polymer of polyisocyanate with extended hydroxy esters of carbamic acid and alcohol
P–96–0931	04/08/96	07/07/96	CBI	(S) Coatings	(G) Polymer of polyisocyanate with extended hydroxy esters of carbamic acid and alcohol
P–96–0932	04/08/96	07/07/96	CBI	(S) Coatings	(G) Polymer of polyisocyanate with extended hydroxy esters of carbamic acid and alcohol
P–96–0933	04/08/96	07/07/96	CBI	(S) Coatings	(G) Polymer of polyisocyanate with extended hydroxy esters of carbamic acid and alcohol
P–96–0934	04/08/96	07/07/96	CBI	(S) Coatings	(G) Polymer of polyisocyanate with extended hydroxy esters of carbamic acid and alcohol
P–96–0935	04/10/96	07/09/96	Thiokol Corporation	(G) Destructive use as a pyrotechnic fuel	(S) Cobalt(3+), hexaammine-, (oc-6-11)-, trinitrate
P–96–0936	04/11/96	07/10/96	CBI	(S) Dye for petroleum fuels; dry for automotive transmission fliud; dry for solvent based coatings and polishes	(G) 2 naphthalenol,1-[[phenyl azo] phenyl azo]-,alkyl derivatives
P–96–0937	04/11/96	07/10/96	CBI	(S) Dye for petroleum fuels; dry for automotive transmission fliud; dry for solvent based coatings and polishes	(G) 2 naphthalenol,1-[[phenyl azo] phenyl azo]-,alkyl derivatives
P–96–0938	04/10/96	07/09/96	CBI	(G) Component fo dispersively applied adhesive	(G) Hexanedioic acid, polymer with 1,4-butanediol, 1,3-diisocyanatomethylbenzene, alkoxylated amines and 5-isocyanato-1-(isocyanatomethyl)-1,3,3-trimethylcyclohexane, polyethylene glycol mono-me ether-blocked, methanesulfonate (salt), reaction products with alkyl amines
P–96–0939	04/10/96	07/09/96	CBI	(G) Lubricant additive	(G) Substituted carboxylic acid
P–96–0940	04/11/96	07/10/96	CBI	(G)	(G) Poly bd dimethacrylate
P–96–0941	04/11/96	07/10/96	CBI	(S) Site limited intermediate for the production of acrylic copolymer for eventual use in textile printing applications	(G) Ceteareth-25 sorbate

I. 140 Premanufacture Notices Received From: 04/01/96 to 04/30/96—Continued

Case No.	Received Date	Projected Notice End Date	Manufacturer/Importer	Use	Chemical
P–96–0942	04/11/96	07/10/96	Fairmount Chemical Company, Inc.	(S) Processing polycarbonates. polymer additives for ultraviolet stabilization-high temperature; processing polyester terepthtalates additives for UV; processing nylon additives for uv; processing for polyketones additives for UV; processing for polysulfones additives for UV	(S) Methanone, [5-[[3-(2*H*-benzotriazol-2-yl)-2-hydroxy-5-(1,1,3,3-tetramethylbutyl)phenyl]methyl]-2-hydroxy-4-(octyloxy)phenyl]phenyl-
P–96–0943	04/12/96	07/11/96	3M Company	(G) Binder resin	(G) Caprolactone polyurethane
P–96–0944	04/12/96	07/11/96	FMC Corporation	(S) Manufacture of drug intermediates; organic specialty chemical synthesis	(G) Organolithium
P–96–0945	04/12/96	07/11/96	E.I. du Pont de Nemours & Company Inc	(G) Destructive use - intermediate	(G) Hydrofluorochloroalkene
P–96–0946	04/12/96	07/11/96	E.I. du Pont de Nemours & Company Inc	(G) Destructive use - intermediate	(G) Mixture of hydrochlorofluoro alkanes and hydrochlorofluoro alkene
P–96–0947	04/12/96	07/11/96	E.I. du Pont de Nemours & Company Inc	(G) Destructive use-intermediate	(G) Mixture of hydrochlorofluoro alkanes and hydrochlorofluoro alkene
P–96–0948	04/12/96	07/11/96	E.I. du Pont de Nemours & Company Inc	(G) Destructive use - intermediate	(G) Mixture of hydrochlorofluoro alkanes and hydrochlorofluoro alkene
P–96–0949	04/15/96	07/11/96	BASF Corporation	(S) Additive in feedstock products used in injection molding compounds	(G) 1,3-dioxepane polymer with 1,1′-[methylene bis(bis)[butane]
P–96–0950	04/15/96	07/11/96	BASF Corporation	(S) Additive in feedstock products used in injection molding compounds	(G) Polymer of C_{13} C_{15} oxoalcohol ethoxolate and ammonia
P–96–0951	04/15/96	07/14/96	BASF Corporation	(G)	(G) Polymer of C_{13} C_{15} oxoalcohol ethorolate amine and maleic anhydride
P–96–0952	04/16/96	07/15/96	CBI	(G) Destructive use	(G) Alkyl phenol
P–96–0953	04/16/96	07/15/96	CBI	(G) Destructive use	(G) Alkyl phenol
P–96–0954	04/16/96	07/15/96	CBI	(G) Destructive use	(G) Alkyl phenol
P–96–0955	04/16/96	07/15/96	CBI	(G) Destructive use	(G) Alkyl phenol
P–96–0956	04/16/96	07/15/96	CBI	(G) Destructive use	(G) Alkyl phenol
P–96–0957	04/16/96	07/15/96	CBI	(G) Destructive use	(G) Alkyl phenol
P–96–0958	04/16/96	07/15/96	CBI	(G) Destructive use	(G) Alkyl phenol
P–96–0959	04/16/96	07/15/96	CBI	(G) Destructive use	(G) Alkyl phenol
P–96–0960	04/15/96	07/08/96	Dystar I.P	(S) Dispersing agent for aqueous dyestuff formulations	(G) Substituted caster oil, polymer with ethylene oxide
P–96–0961	04/15/96	07/14/96	Amoco Corporation	(S) Polymer flow modification additive electronic device encapsulation	(G) Poly(aromatic ester)
P–96–0962	04/15/96	07/14/96	CBI	(G) Thickening compound for agueoes systems	(G) Hydrophobically modified acrylate copolymer, sodium salt
P–96–0963	04/17/96	07/16/96	Essex Specialty Products, Inc	(S) Polymer catalyst used in sealant manufacturing	(G) Isocyanate function polypropylene and polyethylene catalyst
P–96–0964	04/16/96	07/15/96	Ausimont USA Inc	(S) Foam blowing agent cfc-11/cfc-113 solvent replacement	(G) Hcfc 141b
P–96–0965	04/17/96	07/16/96	Great Lakes Chemical Corporation	(G) Flame retardant for polymers	(G) Brominated phthalate diol
P–96–0966	04/15/96	07/14/96	CBI	(G) Destructive use	(G) Bis-disubstituted phenylazo substituted sulfonaphthyl azo diphenylamine monosulfonic acid, sodium salt
P–96–0967	04/18/96	07/17/96	CBI	(G) An orange pigment	(G) Crystal red per submitter
P–96–0968	04/17/96	07/16/96	CBI	(G) Open, non-dispersive use	(G) Epoxy-amine adduct salt
P–96–0969	04/17/96	07/16/96	CBI	(G) Open, non-dispersive use	(G) Epoxy-amine adduct salt
P–96–0970	04/17/96	07/16/96	CBI	(G) Open, non-dispersive use	(G) Epoxy-amine adduct salt.
P–96–0971	04/18/96	07/17/96	Essex Specialty Products, Inc	(S) Polymer used in sealant manufacturing	(G) Isocyanate terminated polyalkylene oxide urethane oligomer
P–96–0972	04/17/96	07/16/96	CBI	(G) One ingredient of the developer for the xerographic machine	(G) Thermosetting acrylic silicone resin
P–96–0973	04/17/96	07/16/96	Mitsubishi Chemical Industries America, Inc	(S) Semi-conductor cleaning solution	(G) Quaternary ammonium salt

I. 140 Premanufacture Notices Received From: 04/01/96 to 04/30/96—Continued

Case No.	Received Date	Projected Notice End Date	Manufacturer/Importer	Use	Chemical
P–96–0974	04/18/96	07/17/96	CBI	(G) Additive, open, non-dispersive use	(G) Dialkylaminoethanol, compounds with phosphoric acid ester
P–96–0975	04/18/96	07/21/96	CBI	(G) Open non-dispersive use	(G) Bis-disubstituted phenylazo substituted sulfonaphthyl azo diphenylamine monosulfonic acid, mixed salt
P–96–0976	04/19/96	07/18/96	Essex Specialty Products, Inc.	(S) Polymer used in sealant manufacture	(G) Isocyanate terminated dicarboxylic acid based urethane oligomer
P–96–0977	04/23/96	07/22/96	Ciba-Geigy Corporation	(G) Paper dye	(G) Substituted triazinyl naphthalene sulfonic acid derivative
P–96–0978	04/23/96	07/22/96	CBI	(G) Raw material for uv coatings for industrial wood applications	(G) Isophorome diisocyanate, polymer with polyether, maleic angydride, epoxy resin, trimethylol propane and 2-hydroxyethyl acrylate
P–96–0979	04/22/96	07/21/96	CBI	(G) Destructive use	(G) Substituted aromatic hafnium dichloride
P–96–0980	04/22/96	07/21/96	CBI	(G) Contained use	(G) Aromatic substituted hafnium dimethyl
P–96–0981	04/22/96	07/21/96	BASF Corporation	(S) Fuel (gasoline) additive	(G) Organic alcohaol, alkoxylated
P–96–0982	04/23/96	07/22/96	CBI	(G) Non-dispersive use	(G) Blocked aromatic iscocyanate
P–96–0983	04/23/96	07/22/96	CBI	(G) Open, non-dispersive use	(G) Styrene-acrylic copolymer
P–96–0984	04/23/96	07/22/96	CBI	(G) Polyolefin catalyst precursor	(G) Mixed magnesium transition metal alkoxide
P–96–0985	04/23/96	07/22/96	Unichema North America	(S) Lubricant base fluid	(S) Isooctadecanoic acid, 2-octyldodecyl ester
P–96–0986	04/23/96	07/22/96	CBI	(S) A pigment wetting agent in lipstick	(S) 2-propenoic acid, 3-phenyl-, 1-methylheptyl ester
P–96–0987	04/23/96	07/22/96	CBI	(G) Thermosetting resin for manufacture of wood building materials	(G) Phenol, polymer with formaldehyde and substituted resorcinols
P–96–0988	04/23/96	07/18/96	CBI	(G) Thermosetting resin for manufacture of wood building materials	(G) Phenol, polymers with formaldehyde and substituted resorcinols
P–96–0989	04/23/96	07/18/96	CBI	(G) Thermosetting resin for manufacture of wood building materials	(G) Phenol, polymers with formaldehyde and substituted resorcinols
P–96–0990	04/23/96	07/22/96	CBI	(G) Raw material for manufacture of adhesive for woood building products.	(G) Substituted resorcinols
P–96–0991	04/23/96	07/22/96	CBI	(G) Raw material for manufacture of adhesive for wood building products.	(G) Substituted resorcinols
P–96–0992	04/23/96	07/22/96	CBI	(G) Raw material for manufacture of adhesive for wood building products.	(G) Substituted resorcinols
P–96–0993	04/23/96	07/22/96	CBI	(G) Paint	(G) Polyester polyol
P–96–0994	04/23/96	07/22/96	CBI	(G) Paint	(G) Polyester polyol
P–96–0995	04/23/96	07/22/96	Callaway Chemical Company	(S) Flocculant for dewatering sludges in industrial and municipal waste streams; process aid in paper manufacturing	(G) Modified cationic polyacrylamide
P–96–0996	04/24/96	07/23/96	CBI	(G) Synthetic base stock	(G) Branched alkanes
P–96–0997	04/24/96	07/23/96	CBI	(G) Synthetic base stock	(G) Branched alkanes
P–96–0998	04/24/96	07/23/96	CBI	(G) Synthetic base stock	(G) Branched alkanes
P–96–0999	04/24/96	07/23/96	CBI	(G) Synthetic base stock	(G) Branched alkanes
P–96–1000	04/24/96	07/23/96	3m company	(G) Binder resin	(G) Caprolactone polyurethane
P–96–1001	04/18/96	07/17/96	Hercules incorporated	(G) A reaction intermediate which will be hydrogenated and thereby converted to a tackifier resin	(G) Aromatic modified hydrocarbon resin
P–96–1002	04/18/96	07/17/96	Hercules incorporated	(G) A reaction intermediate which will be hydrogenated and thereby converted to a tackifier resin	(G) Aromatic modified hydrocarbon resin
P–96–1003	04/18/96	07/17/96	Hercules Incorporated	(G) Industrial use - open non-dispersive use	(G) Hydrogenated hydrocarbon resin
P–96–1004	04/18/96	07/17/96	Hercules incorporated	(G) Industrial use-open non-dispersive use	(G) Hydrogenated hydrocarbon resin

I. 140 Premanufacture Notices Received From: 04/01/96 to 04/30/96—Continued

Case No.	Received Date	Projected Notice End Date	Manufacturer/Importer	Use	Chemical
P–96–1005	04/24/96	07/23/96	CBI	(S) Graphic arts printing plate	(G) Propanol, [(1-methyl-1,2-ethanediyl)bis(oxy)]bis-, polymer with dipropylene glycol; ethanylene oxide, hydroxy-terminated polybutadiene, 1,′-methylenebis-[isocyanatobenzene], hydroxy alkyl amine, alkyl methacryalate and propylene oxide
P–96–1006	04/25/96	07/24/96	Degussa Corporation	(G) Water treatment chemical/ intermediate in chemical synthesis	(S) 1,3-dioxolane, 2-ethenyl-
P–96–1007	04/25/96	07/24/96	Unichema North America	(S) Industrial cleaning commercial textile cleaning emulsion polymerization	(S)Isooctadecanoic acid, 2-(1-carboxyethoxy)-1-methyl-2-oxoethyl ester, sodium salt
P–96–1008	04/25/96	07/24/96	CBI	(G) Component in uv cure release coatings (for adhesive tape backing)	(G) Methacryloxy functional silicone fluid
P–96–1009	04/26/96	07/25/96	CBI	(S) Chemical intermediate for the production of an antioxidant/ stabilizer.	(S) 5-butyl-2-chloro-5-ethyl,-1,3,2-dioxaphosphorinane
P–96–1010	04/26/96	07/25/96	CBI	(S) Sulfur dye intermediate	(G) Substituted indophenol
P–96–1011	04/26/96	07/25/96	CBI	(S) Sulfur dye intermediate	(G) Substituted indophenol
P–96–1012	04/26/96	07/25/96	CBI	(S) Sulfur dye for the dyeing of cellulosic fibers	(G) Amino-substituted-carbopolycycle, reaction product with sodium polysulfide, oxidized
P–96–1013	04/26/96	07/25/96	CBI	(S) Leuco sulfur dye for the dyeing of cellulosic fibers; intermediate used onsite to make oxidized form	(G) Amino-substituted-carbopolycycle, reaction product with sodium polysulfide
P–96–1014	04/30/96	07/29/96	Wacker Silicones Corporation	(G) Additive for thermosets and thermoplastics	(G) Polydimethylsiloxane polymethylmethaxrylate graft copolymer
P–96–1015	04/29/96	07/28/96	CBI	(G) Colorant	(G) Polyoxyalkylene, alkylene succinate polyester
P–96–1016	04/29/96	07/28/96	CBI	(G) Colorant	(G) Polyoxyalkylene, alkylene succinate polyester
P–96–1017	04/29/96	07/28/96	CBI	(G) Colorant	(G) Polyoxyalkylene, alkylene succinate polyester
P–96–1018	04/29/96	07/28/96	CBI	(G) Colorant	(G) Polyoxyalkylene, alkylene succinate polyester
P–96–1019	04/29/96	07/28/96	CBI	(G) Colorant	(G) Polyoxyalkylene, alkylene succinate polyester
P–96–1020	04/29/96	07/28/96	CBI	(G) Colorant	(G) Polyoxyalkylene, alkylene succinate polyester
P–96–1025	04/30/96	07/29/96	CBI	(S) Corrosion inhibitor sumpside additive	(G) Alkanolamines and boric acid, reaction products with fatty acids
P–96–1026	04/30/96	07/29/96	CBI	(S) Corrosion inhibitor sumpside additive	(G) Alkanolamines and boric acid, reaction products with fatty acids
P–96–1049	04/23/96	07/22/96	Goldschmidt Chemical Corporation	(G) Open, none dispersive use	(G) Alkyl modified polyacrylate
P–96–1050	04/23/96	07/22/96	Goldschmidt Chemical Corporation	(G) Open, none dispersive use	(G) Alkyl modified polyacrylate
P–96–1051	04/30/96	07/29/96	Hercules Incorporated	(G) Papermaking production aid	(G) Epichlorohydrin modified polyamide polyamide-polyvinyl alcohol

II. 64 Notices of Commencement Received From: 04/01/96 to 04/30/96

Case No.	Received Date	Commencement/Import Date	Chemical
P–92–0243	04/01/96	03/18/96	(G) Diene copolymers
P–92–1110	04/26/96	04/12/96	(S) Triisopropylortho formate
P–93–0294	04/01/96	03/08/96	(G) Cuprate (3), 2[[[(substituted)azo]phenylmethyl]azo-4-sulfobenzoato (5-)], salt
P–93–0354	04/04/96	05/06/93	(S) Fatty acids, C**18**-unsaturated, trimers, compound with 9-octadecen-1-amine, (*z*)-
P–93–0894	04/02/96	03/15/96	(G) Disubstituted amino phenyl azoheterocyclic propanamide
P–93–1255	04/01/96	03/06/96	(G) Reaction product of metallic alkyls and polysiloxanes
P–93–1256	04/01/96	03/06/96	(G) Reaction product of metallic alkyls, polysiloxanes and transition metal compounds
P–94–0688	04/22/96	03/28/96	(G) Aliphatic diol polyester
P–94–1225	04/23/96	03/27/96	(G) Thermoplastic polyurethane elastomer resin
P–94–1449	04/01/96	03/06/96	(G) Aluminum complex to enhance catalytic activity
P–94–1939	04/18/96	04/04/96	(G) Polyester diol

II. 64 Notices of Commencement Received From: 04/01/96 to 04/30/96—Continued

Case No.	Received Date	Commencement/Import Date	Chemical
P–94–1961	04/08/96	03/07/96	(G) Ethylene interpolymer
P–95–0116	04/22/96	04/10/96	(G) Cleaning detergent
P–95–0117	04/22/96	04/10/96	(G) Cleaning detergent
P–95–0188	04/16/96	04/01/96	(G) Polyaryl and alkyl substituted 1,3-dioxane
P–95–0423	04/01/96	03/08/96	(G) Amine epoxy curing agent
P–95–0475	04/30/96	02/27/96	(G) 1-Methyl-4-substituted pyrazole-5-sulfonamide
P–95–0624	04/30/96	01/05/96	(G) Acrylic resin salt
P–95–0636	04/08/96	03/23/96	(G) Modified phenylene ether polymer
P–95–0753	04/03/96	03/19/96	(G) Substituted nitrobenzene, reaction product with sodium polysulfide, substituted aldehyde, and substituted amine, acidified, oxodized
P–95–0754	04/03/96	03/26/96	(G) Substituted nitrobenzene, reaction product with sodium polysulfide, substituted aldehyde, and substituted amine, reduced
P–95–0825	04/23/96	04/09/96	(S) A polymer of: sunflower fatty acid; trimethylolpropane; pentaerythritol; benzoic acid; phthalic acid anhydride; versatic acid glycidylester
P–95–0872	04/25/96	03/26/96	(S) 4-[3-(3,5-di-t-butyl-4-hydroxyphenyl) propionyloxy]-1-[2-[3,5-di-t-butyl-4-hydroxyphenyl) propionyloxy] ethyl]-2,2,6,6-tetramethyl-piperidine
P–95–1469	04/15/96	03/29/96	(G) Polyurethane polyacrylic resin
P–95–1731	04/01/96	03/13/96	(G) Perhaloacid halide
P–95–1748	04/12/96	04/02/96	(G) Styrene acrylic polymer
P–95–1799	04/24/96	03/24/96	(G) Polymeric colorant
P–95–1847	04/23/96	04/09/96	(G) Polymers 1,2,3,5,6,7: poly(alkylene oxides), polyesters with maleic anhydride, diol modified; polymer 4: poly(alkylene oxides), polyesters with maleic anhydride and phthalic anhydride, diol modified
P–95–1869	04/30/96	04/06/96	(G) Triphenylmethane inner salt, alkoxylated
P–95–1887	04/15/96	03/20/96	(G) Copper ammonium bitetrazole complex
P–95–1946	04/23/96	03/27/96	(G) Alkylated indenyl silane
P–95–1947	04/23/96	04/02/96	(G) Substituted zirconocene dichloride
P–95–1948	04/23/96	03/28/96	(G) Lithiated indenyl silane
P–95–1957	04/05/96	03/29/96	(G) Substituted butadiene styrene copolymer
P–95–1994	04/26/96	04/24/96	(G) Substituted bis(phenyl)isobenzofuranone
P–95–2046	04/05/96	02/16/96	(G) Substituted alkyl methacrylates
P–95–2097	04/30/96	04/10/96	(G) Polyaminoketone prepolymer
P–95–2100	04/16/96	03/22/96	(S) Benzeneacetamide, 4-hydroxy-
P–95–2102	04/08/96	03/25/96	(G) Alktlalkoxy siloxane
P–95–2116	04/18/96	04/08/96	(G) Polyurethane adhesive
P–95–2118	04/18/96	02/16/96	(G) Polyurethane adhesive
P–96–0006	04/15/96	01/04/96	(G) Polyethylene terephthalate copolymer containing lithium sulfo isophthalate
P–96–0016	04/29/96	04/22/96	(S) Soybean oil, polymer, oxidized, bisulfited, sodium salts
P–96–0126	04/03/96	03/07/96	(G) Polyester resin
P–96–0133	04/08/96	03/13/96	(G) Ethylene interpolymer
P–96–0137	04/03/96	03/04/96	(G) Substituted tripheno dioxazinedisulfonic acid salt
P–96–0157	04/30/96	04/24/96	(G) Oxirane, alkyl-, polymer with diisocyantomethyl benzene, hydro-hyroxy poly(oxy-1,4-butanediyl), hydroxy poly[oxy(methyl-1,2-ethanediyl)]and hydroxy alkyl methacrylate-blocked
P–96–0167	04/22/96	04/01/96	(G) Isophorone diurethane
P–96–0199	04/01/96	03/24/96	(G) Mixed sodium/lithium salt of a substituted naphthalene disulfonic acid
P–96–0232	04/22/96	03/21/96	(G) Modified acrylic polymer
P–96–0235	04/22/96	03/19/96	(G) Polyurethane
P–96–0238	04/01/96	03/24/96	(G) An azo monochloro triazine reactive dye
P–96–0240	04/09/96	04/01/96	(G) Polyamide-styrenic elastomer block copolymer
P–96–0241	04/09/96	04/01/96	(G) Polyamide polyolefin block copolymer
P–96–0242	04/09/96	04/01/96	(G) Polyamide polyphthalamide block copolymer
P–96–0265	04/18/96	04/10/96	(G) Trialkoxy substitute alkane
P–96–0277	04/09/96	04/03/96	(S) Polymer of 1,2-ethanediamine, *N*-(2-aminoethyl)*N′*-[2-[(2-aminoethyl)amino]ethyl]-; *a*-(oxiranylmethyl)-*w*-(oxiranylmethoxy) poly [oxy (methyl-1,2-ethanediyl)]; oxirane,2,′-[(1-methylethylidene) bis(4,1-phenyleneoxymethylene)] bis-; oxirane,2,2′-[methylenebis (4,1-phenyleneoxymethylene)]bis-; oxirane,[(2-methylphenoxy) methyl]-; 1,2-ethanediamine,*N,N′*-bis(2-aminoethyl)-
P–96–0302	04/16/96	04/09/96	(G) Poly(hydroxyphenyl) alkene
P–96–0316	04/24/96	04/22/96	(G) Epoxy resin-fatty acids copolymer
P–96–0339	04/30/96	04/12/96	(G) Polyurethane adhesive
P–96–0340	04/29/96	04/10/96	(G) Polyurethane adhesive
P–96–0356	04/26/96	04/18/96	(G) Polyurethane
P–96–0411	04/22/96	04/16/96	(G) Amino epoxy microgel
Y–95–0087	04/16/96	04/11/96	(S) 1,3-butadiene, homopolymer, hydrogenated hydroxy-terminated, fatty acids, montan wax diesters

List of Subjects

Environmental protection, Premanufacture notices.

Dated: January 7, 1997.

George A. Bonina,

Acting Director, Information Management Division, Office of Pollution Prevention and Toxics.

[FR Doc. 97–1877 Filed 1–24–97; 8:45 am]

BILLING CODE 6560–50–F

Federal Register

Monday
January 27, 1997

Part V

Department of Housing and Urban Development

Native American Housing Block Grant Program—Notice of Transition Requirements and Negotiated Rulemaking; Notice

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4170–N–03]

Native American Housing Block Grant Program—Notice of Transition Requirements and Negotiated Rulemaking

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Notice of transition requirements and negotiated rulemaking.

SUMMARY: This notice implements that part of section 106 of the Native American Housing Assistance and Self-Determination Act of 1996 (NAHASDA) (Pub. L. 104–330, approved October 26, 1996) which requires HUD to publish a notice establishing requirements necessary to provide for the transition from the provision of assistance for Indian tribes and Indian housing authorities under the United States Housing Act of 1937 (the 1937 Act) and other related provisions of law to the provision of assistance in accordance with NAHASDA. It also provides notice of the negotiated rulemaking process for the development of regulations necessary to implement the program.

DATES: IHP submission date: Indian Housing Plans must be submitted no later than June 1, 1997.

Comment due date: February 26, 1997.

Nomination for committee membership date: February 26, 1997.

Effective date of NAHASDA section 701(c): October 1, 1997.

ADDRESSES: Interested persons are invited to submit comments regarding this notice to the Rules Docket Clerk, Office of General Counsel, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410–0500. Communications should refer to the above docket number and title. Facsimile (FAX) comments are *not* acceptable. A copy of each communication submitted will be available for public inspection and copying between 7:30 a.m. and 5:30 p.m. weekdays at the above address.

FOR FURTHER INFORMATION CONTACT: Dominic Nessi, Deputy Assistant Secretary for Native American Programs, Office of Native American Programs, Department of Housing and Urban Development, 1999 Broadway, Suite 3390, Denver, CO; telephone (303) 675–1600 (voice) or 1–800–877–8339 (TTY for speech or hearing impaired individuals). These are not toll-free numbers. Indian tribes or tribally designated housing entities with specific questions relating to the preparation of Indian Housing Plans as required by this notice may call their local Office of Native American Programs for assistance in resolving their questions. The telephone numbers and addresses for these Offices appear in a table published in section II. of this notice, below.

SUPPLEMENTARY INFORMATION:

I. General Statutory and Regulatory Background

The Native American Housing Assistance and Self-Determination Act of 1996 (NAHASDA) (Pub. L. 104–330, approved October 26, 1996) reorganizes the system of Federal housing assistance to Native Americans by eliminating several separate programs of assistance and replacing them with a single block grant program. Beginning on October 1, 1997, the first day of the 1998 fiscal year (FY), a single block grant program will replace assistance previously authorized under the United States Housing Act of 1937; the Indian Housing Child Development Program under Section 519 of the Cranston-Gonzalez National Affordable Housing Act (12 U.S.C. 1701z–6 note); the Youthbuild Program under subtitle D of title IV of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12899 et seq.); the Public Housing Youth Sports Program under section 520 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 11903a); the HOME Investment Partnerships Program under title II of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12721 et seq.); and housing assistance for the homeless under title IV of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11361 et seq.) and the Innovative Homeless Demonstration Program under section 2(b) of the HUD Demonstration Act of 1993 (42 U.S.C. 11301 note). In addition to simplifying the process of providing housing assistance, the purpose of NAHASDA is to provide Federal assistance for Indian tribes in a manner that recognizes the right of tribal self-governance.

Section 106 of NAHASDA sets out the general procedure for the implementation of the Native American Housing Block Grant Program. The procedure calls for the publication of a notice in the Federal Register not later than 90 days after enactment. The notice must satisfy three requirements. First, it must establish any requirements necessary to provide for the transition from the provision of assistance for Indian tribes and Indian housing authorities under the United States Housing Act of 1937 and other related provisions of law to the provision of assistance in accordance with NAHASDA. Second, the notice must include a general notice of proposed rulemaking (for purposes of section 564(a) of title 5, United States Code) of the final regulations to carry out NAHASDA. Finally, the notice is to invite public comments regarding the transition requirements and final regulations to carry out the new legislation. Except for the request for comments, which requires no further elaboration, these requirements are addressed in separate sections of this notice below.

On January 7, 8, 9, 14, 15, and 16, a series of meetings was held with tribal representatives and HUD staff in the National Office of HUD's Office of Native American Programs to discuss the regulatory implementation of NAHASDA. These meetings were preliminary to the formal negotiated rulemaking to be initiated under this notice following the 30-day comment period. The January meetings provided a valuable exchange of ideas that will assist in focusing the efforts of the negotiated rulemaking committee.

II. Transition Requirements

The transition requirements that are necessary are those that relate to the initial distribution of funding under the new legislation and those that provide guidance for the treatment of activities and funding under programs repealed by NAHASDA. Although final regulations are required to be issued not later than September 1, 1997, the ''old'' system of funding expires on October 1, 1997, the first day of Fiscal Year 1998, and Indian Housing Plans (IHPs), which are a prerequisite for any distribution of funds under NAHASDA, must be submitted before the block grant funding is provided. To ensure that there is sufficient time for tribes to prepare their IHPs, and for HUD to review them, the requirements for the information that must be included in IHPs and the timetable for their submission are a focus of the transition requirements in this notice. Similarly, providing guidance for the treatment of activities and funding under programs repealed by NAHASDA permits tribes and IHAs to have the greatest amount of time available under the new law to consider and prepare for the transition from the ''old'' programs to the new Indian Housing Block Grant Program.

Both the IHP transition requirements and those that provide guidance for the treatment of activities and funding

under programs repealed by NAHASDA are set out in a Question and Answer format and follow below in this section II of the notice. It is important to note that any final regulations issued under NAHASDA may differ in some respects from these transition requirements, and comment is specifically invited on these transition requirements and how they may be improved. Based upon comments and concerns brought to the attention of the Department, HUD may also issue a supplemental notice with additional transition guidance and requirements.

Question 1. How is funding made available under NAHASDA?

Answer 1. Under NAHASDA, funding is made available for affordable housing activities on an annual basis, and is distributed each fiscal year according to an allocation formula on behalf of Indian tribes who submit an Indian Housing Plan (IHP) that is reviewed and approved by HUD. Unlike other programs, NAHASDA funds are not awarded on a competitive basis in which applications are given scores and are then funded in rank order so that only the highest scoring applications are funded. Every tribe, or entity designated by a tribe, that submits an IHP which complies with the necessary requirements is awarded a block grant which is a share of the available funds. The size of the share is determined by the allocation formula. The award is called a *block grant* because the recipient receives a single ''block'' of funds that may be used for any eligible affordable housing activities in accordance with the tribe's IHP.

Question 2. Who may submit an IHP to apply for a block grant?

Answer 2. An IHP may be submitted by an Indian tribe or, if specifically empowered by the recognized tribal government, by the tribally designated housing entity for the tribe. *A tribally designated housing entity* (TDHE) is an entity other than the tribal government which is authorized by the Indian tribe to receive the block grant amounts and provide assistance according to the requirements of NAHASDA. If a tribe does not specifically authorize an entity to act as its tribally designated housing entity, the tribe's Indian housing authority (HA) under the United States Housing Act of 1937, if there is one on the date of NAHASDA's enactment, is the tribe's TDHE.

When an IHP is submitted on behalf of a tribe by its TDHE, the IHP must contain a certification by the recognized tribal government that either (1) The tribe has had an opportunity to review the IHP and has authorized its submission by the TDHE, or (2) the tribe has delegated to the TDHE the authority to submit an IHP without prior review by the tribe.

An IHP submitted by a TDHE may cover more than one Indian tribe, but only if the IHP contains the certification described in the paragraph above from each tribe covered by the IHP. This option provides additional flexibility by permitting several tribes to agree to have their affordable housing activities administered by a single TDHE for reasons of greater economy or increased efficiency, or for any other reason.

Question 3. What information must be included in an IHP?

Answer 3. Every IHP consists of two parts, a 5-year plan and a 1-year plan, each of which is discussed separately below.

The 5-year plan must contain the following information for the 5-year period beginning with the fiscal year (FY) for which the plan is submitted (for the first IHP submission under the transition requirements of this notice, the five fiscal years covered are 1998, 1999, 2000, 2001 and 2002):

(a) *Mission Statement*—A general statement of the mission of the Indian tribe to serve the housing needs of the low-income families in the jurisdiction of the Indian tribe during the 5-year period.

(b) *Goals and Objectives*—A statement of the goals and objectives of the Indian tribe to enable the tribe to serve the needs identified in the Mission Statement during the 5-year period.

(c) *Activities Plan*—An overview of the housing activities, including the NAHASDA-eligible affordable housing activities, planned during the 5-year period with an analysis of the manner in which the activities will enable the tribe to meet its mission, goals, and objectives.

The 1-year plan must contain the following information relating to the upcoming fiscal year (FY 1998 for purposes of the first IHP submission under the transition requirements of this notice):

(a) *Goals and Objectives*—A statement of the goals and objectives to be accomplished during FY 1998, including the NAHASDA-eligible affordable housing activities.

(b) *Statement of Needs*—A statement of the housing needs of the low-income Indian families residing in the jurisdiction of the Indian tribe and the means by which such needs will be addressed during FY 1998, including:

(1) A description of the estimated housing needs and the need for assistance for the low-income Indian families in the jurisdiction, including a description of the manner in which the geographical distribution of assistance is consistent with the geographical needs and needs for various categories of housing assistance; and

(2) A description of the estimated housing needs for all Indian families in the jurisdiction.

(c) *Financial Resources*—An operating budget for the recipient that includes:

(1) An identification and a description of the financial resources reasonably available to the recipient to carry out the NAHASDA-eligible affordable housing activities described in the IHP, including an explanation of the manner in which amounts made available will leverage additional resources; and

(2) The uses to which such resources will be committed, including eligible affordable housing activities and administrative expenses. (Section 101(h) of NAHASDA requires HUD, by regulation, to authorize each recipient to use a percentage of any grant amounts received for any reasonable administrative and planning expenses of the recipient relating to carrying out NAHASDA and activities assisted with such amounts, which may include costs for salaries of individuals engaged in administering and managing affordable housing activities assisted with grant amounts and expenses of preparing an IHP. This regulation will be developed by the negotiated rulemaking committee who will be proposing to HUD the percentage of grant amounts to be used for planning and administrative expenses.

(d) *Affordable Housing Resources*—A statement of the affordable housing resources currently available and to be made available during FY 1998, including:

(1) A description of the significant characteristics of the housing market in the tribe's jurisdiction, including the availability of housing from other public sources, private market housing, and the manner in which such characteristics influence the decision of the recipient to use grant amounts for rental assistance, production of new units, acquisition of existing units, or rehabilitation of units;

(2) A description of the structure, coordination, and means of cooperation between the recipient and any other governmental entities in the development, submission, or implementation of housing plans, including a description of the involvement of private, public, and nonprofit organizations and institutions, and the use of loan guarantees under section 184 of the Housing and Community Development Act of 1992, and other housing assistance provided by the Federal Government for Indian

tribes, including loans, grants, and mortgage insurance;

(3) A description of the manner in which the plan will address the needs identified in the Statement of Needs in the 1-year plan required by paragraph (b), above;

(4) A description of the manner in which the recipient will protect and maintain the viability of housing owned and operated by the recipient that was developed under a contract between HUD and an Indian housing authority pursuant to the United States Housing Act of 1937;

(5) A description of any existing and anticipated homeownership programs and rental programs to be carried out during FY 1998, and the requirements and assistance available under such programs;

(6) A description of any existing and anticipated housing rehabilitation programs necessary to ensure the long-term viability of the housing to be carried out during FY 1998, and the requirements and assistance available under such programs;

(7) A description of all other existing or anticipated housing assistance provided by the recipient during FY 1998, including transitional housing, homeless housing, college housing, supportive services housing, and the requirements and assistance available under such programs;

(8) A description of any housing to be demolished or disposed of, and a timetable for such demolition or disposition;

(9) A description of the manner in which the recipient will coordinate with tribal and State welfare agencies to ensure that residents of such housing will be provided with access to resources to assist in obtaining employment and achieving self-sufficiency;

(10) A description of the requirements established by the recipient to promote the safety of residents of such housing, facilitate the undertaking of crime prevention measures, allow resident input and involvement, including the establishment of resident organizations, and allow for the coordination of crime prevention activities between the recipient and tribal and local law enforcement officials; and

(11) A description of the entity that will carry out the activities under the IHP, including the organizational capacity and key personnel of the entity.

(d) *Certifications of compliance*—The IHP must include the following certifications:

(1) A certification that the recipient will comply with title II of the Civil Rights Act of 1968 in carrying out activities funded by NAHASDA, to the extent that such title is applicable, and other applicable Federal statutes;

(2) A certification that the recipient will maintain adequate, meaning sufficient to cover replacement costs, insurance coverage for housing units that are owned and operated or assisted with grant amounts;

(3) A certification that policies are in effect and are available for review by HUD and the public governing:

(i) The eligibility, admission, and occupancy of families for housing assisted with grant amounts;

(ii) Rents charged, including the methods by which rents or homebuyer payments are determined, for housing assisted with grant amounts;

(iii) The management and maintenance of housing assisted with grant amounts provided under this Act;

(4) If an IHP is submitted on behalf of a tribe by its tribally designated housing authority (TDHE), the IHP must contain a certification by the recognized tribal government that either:

(i) The tribe has had an opportunity to review the IHP and has authorized its submission by the TDHE, or

(ii) The tribe has delegated to the TDHE the authority to submit an IHP without prior review by the tribe;

(5) If an IHP that covers more than one Indian tribe is submitted by a TDHE, each tribe covered by the IHP must submit as part of the IHP the certification described in paragraph (4), immediately above;

(6) A certification that the governing body of the locality within which any affordable housing to be assisted with the grant amounts will be situated has entered into, or has begun negotiations, which must be completed before any award of NAHASDA funds can be made, to enter into, a local cooperation agreement with the recipient for the tribe providing that:

(i) The affordable housing assisted with grant amounts received by the recipient (exclusive of any portions not assisted with amounts provided under NAHASDA) is exempt from all real and personal property taxes levied or imposed by any State, tribe, city, county, or other political subdivision; and

(ii) The recipient makes annual payments of user fees to compensate such governments for the costs of providing governmental services, including police and fire protection, roads, water and sewerage systems, utilities systems and related facilities, or payments in lieu of taxes to such taxing authority, in an amount equal to the greater of $150 per dwelling unit or 10 percent of the difference between the shelter rent and the utility cost, or such lesser amount as:

(A) Is prescribed by State, tribal, or local law;

(B) Is agreed to by the local governing body in the local cooperation agreement; or

(C) The recipient and the local governing body agree in the local cooperation agreement that such user fees or payments in lieu of taxes shall not be made; or

(iii) If the affordable housing assisted with grant amounts received by the recipient (exclusive of any portions not assisted with amounts provided under NAHASDA) is not exempt from all real and personal property taxes levied or imposed by any State, tribe, city, county, or other political subdivision, that the tribe, State, city, county, or other political subdivision in which the affordable housing development is located contributes, in the form of cash or tax remission, the amount by which the taxes paid with respect to the development exceed the amounts prescribed in section (6)(ii) of the 1-year plan requirements, above.

Question 4. What are the affordable housing activities that are eligible for funding under NAHASDA?

Answer 4. Affordable housing activities are activities to develop or to support affordable housing for rental or homeownership, or to provide housing services with respect to affordable housing, for the benefit of low-income Indian families on Indian reservations and other Indian areas. In the case of a low-income family residing in a dwelling unit assisted with NAHASDA grant amounts, affordable housing is housing for which the monthly rent or homebuyer payment (as applicable) does not exceed 30 percent of the family's monthly adjusted income. Eligible affordable housing activities are described below in sections (a) through (k) of this answer:

(a) *Indian Housing Assistance*—The provision of modernization or operating assistance for housing previously developed or operated pursuant to a contract between HUD and an Indian housing authority.

(b) *Development*—The acquisition, new construction, reconstruction, or moderate or substantial rehabilitation of affordable housing, which may include real property acquisition, site improvement, development of utilities and utility services, conversion, demolition, financing, administration and planning, and other related activities. Affordable housing includes permanent housing for homeless persons who are persons with

disabilities, transitional housing, and single room occupancy housing.

(c) *Housing Services*—The provision of housing-related services for affordable housing, such as housing counseling in connection with rental or homeownership assistance, establishment and support of resident organizations and resident management corporations, energy auditing, activities related to the provision of self-sufficiency and other services, and other services related to assisting owners, tenants, contractors, and other entities, participating or seeking to participate in other housing activities assisted with grant amounts.

(d) *Housing Management Services*—The provision of management services for affordable housing, including preparation of work specifications, loan processing, inspections, tenant selection, management of tenant-based rental assistance, and management of affordable housing projects.

(e) *Crime Prevention and Safety Activities*—The provision of safety, security, and law enforcement measures and activities appropriate to protect residents of affordable housing from crime.

(f) *Rental Assistance*—The provision of tenant-based rental assistance.

(g) *Model Activities*—Housing activities under model programs that are designed to carry out the purposes of NAHASDA and are specifically approved by HUD as appropriate for such purpose.

(h) *Administrative Expenses*—A percent of grant amounts, to be determined in the final rule, may be used for any reasonable administrative and planning expenses of a recipient relating to carrying out NAHASDA and activities assisted with such amounts, including costs for salaries of individuals engaged in administering and managing affordable housing activities assisted with grant amounts and the expenses of preparing an IHP.

Question 5. How may grant amounts be used to carry out eligible activities?

Answer 5. In addition to being used to directly pay for eligible activities, grant amounts may be used for affordable housing activities through equity investments, interest-bearing loans or advances, noninterest-bearing loans or advances, interest subsidies, leveraging of private investments, or any other form of assistance that HUD determines to be consistent with the purposes of NAHASDA. This answer is provided from section 204 -''Types of Investments''—of NAHASDA. Guidance on the types of investments permissible under section 204 of NAHASDA will be provided in the final regulations.

Question 6. When must the IHP required by these transition requirements be submitted?

Answer 6. An IHP must be received by HUD no later than June 1, 1997 in order to be considered for FY 1998 funding.

Question 7. Where must an IHP be submitted?

Answer 7. All IHPs must be submitted to the local Area Office of Native American Programs as follows:

Tribes and IHAs located	ONAP Address
East of the Mississippi River (including all of Minnesota) and Iowa.	Eastern/Woodlands Office of Native American Programs, 5P, Metcalfe Federal Building, 77 West Jackson Boulevard, Chicago, Illinois 60604–3507, (312) 353–1282 or (800) 735–3239, TDD Numbers: 1–800–927–9275 or 312–886–3741.
Louisiana, Missouri, Kansas, Oklahoma, and Texas except for Isleta del Sur.	Southern Plains Office of Native American Programs, 6.IPI, 500 West Main Street, Suite 400, Oklahoma City, Oklahoma 73012, (405) 552–0194, 552–0195.
Colorado, Montana, Nebraska, North Dakota, South Dakota, and Wyoming.	Northern Plains Office of Native American Programs, 8P, First Interstate Tower North, 633 17th Street, Denver, Colorado 80202–3607, (303) 672–5462, TDD Number: 303–844–6158.
Arizona, California, New Mexico, Nevada, and Isleta del Sur in Texas.	Southwest Office of Native American Programs, 9EPID, Two Arizona Center, 400 North Fifth Street, Suite 1650, Phoenix, Arizona 85004–2361, (602) 379–4156, TDD Number: 602–379–4461. or Albuquerque Division of Native American Programs, 9EPIDI, Albuquerque Plaza, 201 3rd Street, NW, Suite 1830, Albuquerque, New Mexico 87102–3368, (505) 766–1372, TDD Number: None.
Idaho, Oregon, and Washington	Northwest Office of Native American Programs, 10PI, 909 First Avenue, Suite 300, Seattle, Washington 98104–1000, (206) 220–5270, TDD Number: (206) 220–5185.
Alaska	Alaska Office of Native American Programs, 10.1Pl, 949 East 36th Avenue, Suite 401, Anchorage, Alaska 99508–4399, (907) 271–4633, TDD Number: (907) 271–4328.

Question 8. May an IHA continue to remain subject to the 1937 Act, and convert to a PHA?

Answer 8. No, because the purpose and result of NAHASDA is the exclusion of IHAs from the definition of a PHA as of September 30, 1997. After September 30, 1997, there may be IHAs that want to remain subject to the 1937 Act, but the consequence of NAHASDA section 501 is to make it impossible, after September 30, 1997, for an IHA to be considered a PHA. Further, section 502(b) provides that any IHA housing developed or operated under the 1937 Act must be considered and maintained as affordable housing for purposes of NAHASDA, and precludes the continued application of title I of the 1937 Act to IHAs after September 30, 1997.

Question 9. What happens to grants already made under the homeless, Youthbuild and Indian HOME programs?

Answer 9. These grants continue to be governed by the statutes authorizing the programs as those statutes exist on September 30, 1997 and by the grant agreements. After completion of the funded activities, the grants will be closed out in accordance with their program requirements and grant agreements.

III. General Notice of Proposed Rulemaking (For Purposes of Section 564(A) of Title 5, United States Code)

Section 106(b)(2)(A) provides: ''Notwithstanding sections 563(a) and 565(a) of title 5, United States Code, all regulations required under this Act shall be issued according to a negotiated rulemaking procedure under subchapter III of chapter 5 of title 5, United States Code.'' Further, section 106(a)(2)(b) requires the transition notice to ''include a general notice of proposed rulemaking (for purposes of section 564(a) of title 5, United States Code) of the final regulations under subsection (b).'' Accordingly, this section of the transition notice provides the

information required under 5 U.S.C. 564(a) as follows:

(1) HUD is establishing a negotiated rulemaking committee to negotiate and develop a proposed rule as required by NAHASDA.

(2) The subject and scope of the rule to be considered are the development of proposed regulations required under the Native American Housing Assistance and Self-Determination Act of 1996 (NAHASDA) (Pub. L. 104–330, approved October 26, 1996), including regulations governing the allocation formula to be used, the information to be provided in Indian Housing Plans (IHPs), the parameters of eligible activities, the frequency and content of required reports, and any other ancillary matters necessary to provide for the operation of the Indian Housing Block Grant Program established by NAHASDA.

(3) The interests that are likely to be significantly affected by the rule are the members of Indian tribes, particularly low-income Indian families on Indian reservations and other Indian areas.

(4) The persons proposed to represent these interests, selected to satisfy the NAHASDA section 106(b)(2)(B)(ii)(I) requirement that the membership of the committee include only representatives of the Federal Government and of geographically diverse small, medium, and large Indian tribes, are the following:

Region/Member and Tribal Affiliation

South & Eastern

Jennie A. Greene, Housing Administrator, Aquinnah Wampanoag Tribal Housing Authority.

Bernadette Harlan, Executive Director, Seneca Nation Housing Authority.

Betty Jones, Housing Manager, Seminole Tribal Housing Authority.

Phillip Martin, Tribal Chief, Mississippi Band of Choctaw Indians.

Alternate: Jay Dorris, Planner, Mississippi Band of Choctaw Indians.

Richard Mitchell, Executive Director, Penobscot Tribal Reservation Housing Authority.

Susan M. Wicker, Executive Director, Poarch Creek Indian Housing Authority.

Great Lakes

Doug DeWalt, Executive Director, Sokaogon Chippewa Housing Authority.

Martin Jennings, Executive Director, Leech Lake Housing Authority.

Tom Maulson, Tribal Chairman, Lac du Flambeau Band of Lake Superior Chippewa Indians.

Jolene Nertoli, Housing Director, Sault Tribe Housing Authority.

Rick Smith, Director, Minnesota Chippewa Home Loan Program

Bobby Whitefeather, Tribal Chairman, Red Lake Band of Chippewa.

Oklahoma

Bill Anoatubby, Governor, Chickasaw Nation.

Alternate: Ken Samples, Executive Director, The Housing Authority of the Chickasaw Nation.

Joe Byrd, Principal Chief, Cherokee Nation of Oklahoma.

Alternate: Joel R. Thompson, Executive Director, The Housing Authority of the Cherokee Nation.

Merle Boyd, Second Chief, Sac & Fox Nation.

Larry Nuckolls, Governor, Shawnee Tribe of Oklahoma.

Ron Qualls, Potawattomi Nation Housing Authority.

Duke Tsoodle, Executive Director, Housing Authority of the Apache Tribe.

Mountain/Plains

Paul D. Iron Cloud, Executive Director, Oglala Sioux Housing Authority.

Debbie Isburg, Executive Director, Lower Brule Housing Authority.

Russell Bud Mason, Sr., Chairman, Three Affiliated Tribes.

William Joseph Moran, Councilman, Confederated Salish & Kootenia Tribes.

Alternate: Robert Gauthier, Executive Director, Salish & Kootenia Housing Authority.

S. Jack Sawyer, Projects Coordinator, Paiute Housing Authority, Paiute Indian Tribe of Utah.

Bruce Sun Child, Council Member, Chippewa Cree Tribe.

Nevada/California

Phil Bush, Executive Director, Modoc Lassen Indian Housing Authority.

Virginia Kizer, Executive Director, Washoe Housing Authority.

Juana Majel, Pauma Band of Mission Indians, San Diego American Indian Health Center.

Arlan Melandez, Chairman, Reno Sparks Indian Colony.

Darlene Tooley, Executive Director, Northern Circle Indian Housing Authority.

Brian Wallace, Tribal Chairman, Washoe Tribe of Nevada and California.

Southwest

Chester Carl, Executive Director, Navajo Housing Authority.

David F. Garcia, Contracts and Grants Coordinator, Pueblo of Acoma.

Alternate: Raymond J. Concho, Jr., Executive Director, Acoma Housing Authority.

Joe Garcia, Councilman, San Juan Pueblo.

Albert Hale, President, Navajo Nation.

Alternate: Kenneth Peterson, Executive Staff Assistant, Navajo Nation.

Ivan Makil, President, Salt River Pima-Maricopa Indian Community.

Alternate: Charleen H. Greer, Staff Attorney, Salt River Pima-Maricopa Indian Community.

Raymond Stanley, Tribal Chairman, San Carlos Apache Tribe.

Northwest

Henry Cagey, Tribal Chairman, Lummi Nation.

Rod Clark, Director, Klamath Alcohol and Drug Abuse.

Stanley G. Jones, Chairman of the Board of Directors, Tulalip Tribes.

Norman C. Nault, Executive Director, Yakama Nation Housing Authority.

John S. Williamson, Executive Director, Lower Elwha Housing Authority

Coni Wilson, Executive Director, Quinault Housing Authority.

Alaska

Kristian Anderson, Executive Director, Aleutian Housing Authority.

Thomas W. Harris, Executive Director, Cook Inlet Housing Authority.

Jacqueline L. Johnson, Executive Director, Tlingit-Haida Regional Housing Authority.

Will Mayo, President, Tanana Chiefs Conference.

Alternate: Joseph G. Wilson, Executive Director, Interior Regional Housing Authority.

Frank A. Peratovich, Jr., Executive Director, Copper River Basin Regional Housing Authority.

Edward K. Thomas, President, Central Council Tlingit Haida Indian Tribes of Alaska.

Alternate: Lee Clayton, President, Chilkoot Indian Association.

Department of Housing and Urban Development

Robert G. Barth, Office of Native American Programs.

Jennifer A. Bullough, Office of Native American Programs.

Barbara L. Burkhalter, Office of Public and Indian Housing.

Comptroller

Ted L. Key, Office of Native American Programs.

Bruce A. Knott, National Office of Native American Programs.

Deborah M. Lalancette, National Office of Native American.

Programs

Dominic A. Nessi, National Office of Native American Programs.

Peter J. Petrunich, National Office of Native American.

Programs

Todd M. Richardson, Michigan State Office.

Carol A. Roman, Colorado State Office, Northern Plains Office of Native American Programs.

(5) The proposed agenda and schedule for completing the work of the committee, including the target date for publication by HUD of a proposed rule for notice and comment, are as follows:

The members of the negotiated rulemaking committee will determine the agenda for the committee's work.

The target date for the publication of a proposed rule for notice and comment is June 1, 1997.

(6) A description of the administrative support for the committee to be provided by HUD, including technical assistance, is as follows:

In addition to providing meeting facilities, HUD will provide a neutral facilitator, travel funds when available, and a recorder for the activities of the committee.

(7) Comments are requested on the proposed membership of this negotiated rulemaking committee. In addition, persons who will be significantly affected by the proposed rule to be reported out by the committee and who believe their interests will not be adequately represented by any person proposed for membership in this notice may, by the date specified for the submission of comments on this notice, apply for, or nominate another person for, membership on the committee by submitting:

—The name of the person nominated and a description of the interests that person will represent;

—Evidence that the person nominated is authorized to represent parties related to the interests the person would represent;

—A written commitment that the person nominated will actively participate in good faith in the development of the rule under consideration; and

—The reasons that the persons proposed for membership in this notice do not adequately represent the interests that the nominated person would represent.

IV. Effective Date of Nahasda Section 701(c)

This notice establishes an effective date of October 1, 1997 for purposes of NAHASDA section 701(c). This section establishes a new requirement for the Indian Housing Loan Guarantee Program (also called the Section 184 Program) under section 184 of the Housing and Community Development Act of 1992 (12 U.S.C. 1515z–13a) that eligible loans must be for housing on land under the jurisdiction of an Indian tribe for which an Indian housing plan (IHP) has been submitted and approved pursuant to sections 102 and 103 of NAHASDA. Since HUD anticipates that IHPs will not be submitted and approved until about the beginning of FY 1998, section 701(c) is given this delayed implementation date to prevent any interruption in the processing of section 184 loan guarantees.

V. Findings and Certifications

Paperwork Reduction Act Statement

The information collection requirements contained in this notice have been submitted to the Office of Management and Budget for emergency review and approval under section 3507(j) of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The OMB control number, when assigned, will be published in the Federal Register. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a valid control number.

Regulatory Planning and Review

This notice has been reviewed in accordance with Executive Order 12866, issued by the President on September 30, 1993 (58 FR 51735, October 4, 1993). Any changes to the rule resulting from this review are available for public inspection between 7:30 a.m. and 5:30 p.m. weekdays in the Office of the Rules Docket Clerk.

Executive Order 12606, The Family

The General Counsel, as the Designated Official under Executive Order 12606, *The Family*, has determined that the policies announced in this Notice would not have a significant impact on the formation, maintenance, and general well-being of families since they only establish transition requirements that are only temporary in nature.

Executive Order 12612, Federalism

The General Counsel has determined, as the Designated Official for HUD under section 6(a) of Executive Order 12612, *Federalism*, that the policies contained in this notice will not have substantial direct effects on states or their political subdivisions, or the relationship between the federal government and the states, or on the distribution of power and responsibilities among the various levels of government. The notice only establishes temporary transition requirements for the initial participation by Indian tribes in a new statutory program.

Environmental Review

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations at 24 CFR Part 50, which implement section 102(2)(C) of the National Environmental Policy Act of 1969. The Finding of No Significant Impact is available for public inspection between 7:30 a.m. and 5:30 p.m. weekdays in the Office of the Rules Docket Clerk.

Authority: Section 106 of the Native American Housing Assistance and Self-Determination Act of 1996 (NAHASDA) (Pub. L. 104–330, approved October 26, 1996).

Dated: January 23, 1997.

Kevin Emanuel Marchman,

Acting Assistant Secretary for Public and Indian Housing.

[FR Doc. 97–2055 Filed 1–23–97; 3:23 pm]

BILLING CODE 4210–33–P

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  - Packages containing 50 mg or more of Ketoprofen; comments due by 2-3-97; published 11-20-96

DEFENSE DEPARTMENT

Acquisition regulations:
- Business combination; external restructuring costs reimbursement; comments due by 2-4-97; published 12-6-96
- Contract termination or reduction notification; comments due by 2-4-97; published 12-6-96

ENERGY DEPARTMENT

Federal Energy Regulatory Commission

Practice and procedure:
- Hydroelectric projects; relicensing procedures; rulemaking petition; comments due by 2-3-97; published 12-3-96

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- Heavy-duty engines--
  - Nonroad diesel engines; comments due by 2-3-97; published 1-2-97

Air quality implementation plans; approval and promulgation; various States:
- Ohio; comments due by 2-5-97; published 1-6-97

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FEDERAL COMMUNICATIONS COMMISSION

Common carrier services:

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1, 2 (2 Reserved)	(869–028–00001–1)	$4.25	Feb. 1, 1996
3 (1995 Compilation and Parts 100 and 101)	(869–028–00002–9)	22.00	[1] Jan. 1, 1996
4	(869–028–00003–7)	5.50	Jan. 1, 1996
5 Parts:			
1–699	(869–028–00004–5)	26.00	Jan. 1, 1996
700–1199	(869–028–00005–3)	20.00	Jan. 1, 1996
1200–End, 6 (6 Reserved)	(869–028–00006–1)	25.00	Jan. 1, 1996
7 Parts:			
0–26	(869–028–00007–0)	22.00	Jan. 1, 1996
27–45	(869–028–00008–8)	11.00	Jan. 1, 1996
46–51	(869–028–00009–6)	13.00	Jan. 1, 1996
52	(869–028–00010–0)	5.00	Jan. 1, 1996
53–209	(869–028–00011–8)	17.00	Jan. 1, 1996
210–299	(869–028–00012–6)	35.00	Jan. 1, 1996
300–399	(869–028–00013–4)	17.00	Jan. 1, 1996
400–699	(869–028–00014–2)	22.00	Jan. 1, 1996
700–899	(869–028–00015–1)	25.00	Jan. 1, 1996
900–999	(869–028–00016–9)	30.00	Jan. 1, 1996
1000–1199	(869–028–00017–7)	35.00	Jan. 1, 1996
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9 Parts:			
1–199	(869–028–00025–8)	30.00	Jan. 1, 1996
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0–50	(869–028–00027–4)	30.00	Jan. 1, 1996
51–199	(869–028–00028–2)	24.00	Jan. 1, 1996
200–399	(869–028–00029–1)	5.00	Jan. 1, 1996
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●170–199	(869–028–00067–3)	29.00	Apr. 1, 1996
●200–299	(869–028–00068–1)	7.00	Apr. 1, 1996
●300–499	(869–028–00069–0)	50.00	Apr. 1, 1996
●500–599	(869–028–00070–3)	28.00	Apr. 1, 1996
●600–799	(869–028–00071–1)	8.50	Apr. 1, 1996
●800–1299	(869–028–00072–0)	30.00	Apr. 1, 1996
●1300–End	(869–028–00073–8)	14.00	Apr. 1, 1996
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§§ 1.1401–End	(869–028–00096–7)	35.00	Apr. 1, 1996

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40–49	(869–028–00099–1)	13.00	Apr. 1, 1996
50–299	(869–028–00100–9)	14.00	Apr. 1, 1996
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100–499	(869–028–00109–2)	12.00	July 1, 1996
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300–399	(869–028–00132–7)	27.00	July 1, 1996
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●500–End	(869–026–00182–1)	13.00	Oct. 1, 1995
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50 Parts:			
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200–599	(869–026–00204–5)	22.00	Oct. 1, 1995
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[1] Because Title 3 is an annual compilation, this volume and all previous volumes should be retained as a permanent reference source.

[2] The July 1, 1985 edition of 32 CFR Parts 1–189 contains a note only for Parts 1–39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1–39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

[3] The July 1, 1985 edition of 41 CFR Chapters 1–100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.

[4] No amendments to this volume were promulgated during the period Apr. 1, 1990 to Mar. 31, 1996. The CFR volume issued April 1, 1990, should be retained.

[5] No amendments to this volume were promulgated during the period July 1, 1991 to June 30, 1996. The CFR volume issued July 1, 1991, should be retained.

[6] No amendments were promulgated during the period October 1, 1995 to September 30, 1996. The CFR volume issued October 1, 1995 should be retained.